

**A. INTRODUCTION**

This document summarizes and responds to comments on the Draft Supplemental Environmental Impact Statement (Draft SEIS), issued on August 17, 2007, for the First Avenue Properties Rezoning. Oral and written comments were received during the public hearing held by the New York City Department of City Planning on December 5, 2007. Written comments were accepted through the close of the public comment period which ended December 17, 2007.

Section B lists the elected officials, organizations, and individuals that provided relevant comments on the SEIS. Section C contains a summary of these relevant comments and a response to each. These summaries convey the substance of the comments made, but do not necessarily quote the comments verbatim. Comments are organized by subject matter and generally parallel the chapter structure of the SEIS. Where more than one commentator expressed similar views, those comments have been grouped and addressed together. A number of commentators submitted general comments about the Proposed Actions. These comments were given due consideration but are not itemized below.

Some commentators did not make specific comments related to the proposed approach or methodology for the impact assessments. Others had suggested editorial changes. Where relevant and appropriate these edits, as well as other substantive changes to the SEIS, have been incorporated into the Final Supplemental Environmental Impact Statement (Final SEIS).

**B. LIST OF ORGANIZATIONS AND INDIVIDUALS WHO COMMENTED ON THE DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT****ELECTED OFFICIALS**

1. Thomas K. Duane, Senator, oral comments and written submission dated December 5, 2007 (Duane)
2. Daniel R. Garodnick, Council member, oral comments and written submission dated December 5, 2007 (Garodnick)
3. Brian Kavanaugh, Assembly member, oral comments and written submission dated December 5, 2007 (Kavanaugh)
4. Liz Krueger, Senator, oral comments and written submissions dated December 5, 2007 and September 27, 2006 (Krueger)
5. Jessica Lappin, Council member, oral comments (Lappin)
6. Carolyn B. Maloney, U.S. Representative, written submission dated December 5, 2007 (Maloney)

## **First Avenue Properties Rezoning Final SEIS**

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7. Rosie Mendez, Council member, oral comments and written submission dated December 4, 2007 (Mendez)
8. Scott Stringer, Manhattan Borough President, written submissions dated August 9, 2006 and November 28, 2007 (Stringer)

### **COMMUNITY BOARDS**

9. Manhattan Community Board 6, ULURP and Draft SEIS Resolution, October 29, 2007 (written statement submitted under separate cover) (CB6-1)
10. Manhattan Community Board 6, Con Ed Subcommittee Open Space Memorandum, February 15, 2007 (written statement attached to CB6 ULURP and Draft SEIS Resolution) (CB6 OS Memo)
11. Manhattan Community Board 6, Con Ed Subcommittee Zoning Memorandum, January 24, 2006 (written statement attached to CB6 ULURP and Draft SEIS Resolution) (CB6 Zoning Memo)
12. Manhattan Community Board 6, Con Ed Subcommittee Bulk Memorandum, January 4, 2006 (written statement attached to CB6 ULURP and Draft SEIS Resolution) (CB6 Bulk Memo)
13. Manhattan Community Board 6, Con Ed Subcommittee Parking Memorandum, November 1, 2005 (written statement attached to CB6 ULURP and Draft SEIS Resolution) (CB6 Parking Memo)
14. Manhattan Community Board 6, Housing and Homeless Services Committee, October 9, 2007 (written statement attached to CB6 ULURP and Draft SEIS Resolution) (CB6 Housing Memo)
15. Lyle Frank, Chair, Manhattan Community Board 6, written statement attached to CB6 ULURP and Draft SEIS Resolution, February 28, 2007 (Frank)
16. Manhattan Community Board 6 Parks, Landmarks and Cultural Affairs Committee, written statement attached to CB6 ULURP and Draft SEIS Resolution, October 26, 2007 (CB6 Parks Cmte)
17. Manhattan Community Board 6, Public Safety, Environment and Human Rights Committee, written statement attached to CB6 ULURP and Draft SEIS Resolution, October 29, 2007. Also submitted with December 5, 2007 date. (CB6 Safety Cmte)
18. Manhattan Community Board 6, Transportation Committee, written statement attached to CB6 ULURP and Draft SEIS Resolution, undated (CB6 Transp Cmte)
19. Georges Jacquemart, BFJ Planning, written statement attached to CB6 ULURP and Draft SEIS Resolution, October 25, 2007 (BFJ-1)
20. Manhattan Community Board 6, Youth and Education Committee, written statement attached to CB6 ULURP and Draft SEIS Resolution, October 16, 2007 (CB6 Youth Cmte)
21. Manhattan Community Board 6, Land Use and Parks Committees, Irene Peveri, oral comments and written submission dated December 5, 2007 (CB6-Peveri)
22. Manhattan Community Board 6, Public Safety, Environmental and Human Rights Committee, Fred Arcaro, Chairman, oral comments and written submission dated December 5, 2007 (CB6-Arcaro)

23. Manhattan Community Board 6, Land Use Committee, Edward C. Rubin, Chair, oral comments and undated written submission (CB6-Rubin)
24. Manhattan Community Board 6, Land Use Committee, Colleen Curtis, oral comments and undated written submission (CB6-Curtis)
25. Manhattan Community Board 6, Transportation Committee, Lou Sepersky, Chair, oral comments and undated written submission (CB6-Sepersky)
26. Manhattan Community Board 6, Land Use Committee, Con Ed Subcommittee, Charles Buchwald, Chair, oral comments and undated written submission (CB6-Buchwald)
27. Manhattan Community Board 6, Lyle Frank, Chair, oral comments (CB6-Frank-Oral)
28. Manhattan Community Board 6, Ellen Imbimbo, oral comments (CB6-Imbimbo)
29. Manhattan Community Board 6, Toni Carlina, oral comments (CB6-Carlina)
30. Manhattan Community Board 6, John West, oral comments (CB6-West)
31. Manhattan Community Board 6, Lyle Frank and Edward Rubin, Co-Chairs, written submission dated December 17, 2007 (CB6-Frank and Rubin)

**ORGANIZATIONS**

32. BFJ Planning (for CB6), Frank Fish, oral comments and written submission dated December 14, 2007; Georges Jacquemart, oral comments (BFJ-2)
33. Building Trades Employers' Association, James L. Coletti, Assistant Vice President, written submission dated December 5, 2007 (BTEA)
34. Forsythe Street Advisors, Chuck Lavin, oral comments (FSA)
35. The Gaia Institute, Daniel B. Simon, Low Impact Development Coordinator, written submission dated November 21, 2007 (Gaia)
36. Mason Tenders District Council of Greater New York, Michael McGuire, oral comments (Mason)
37. Movement for a Livable City, Kris Lefcoe and Robert Jereski, written submission dated January 9, 2008; Evelyn Conrad, oral comments; Lucy Webster, oral comments (MLC)
38. Municipal Art Society, Frank Sanchis, oral comments and written submission dated December 10, 2007; written submission dated December 2007 (MAS)
39. Municipal Art Society Planning Center, Community-Based Planning Task Force, Lacey Tauber, oral comments and written submission dated December 5, 2007 (MASPC)
40. Peter Stuyvesant Little League, Michael Conlon, President, written submission dated December 5, 2007 (co-author); Mike Neely, oral comments; Manhattan Kickers Soccer Club, Karen Feuer, President, written submission dated December 5, 2007 (Conlon)
41. The Real Estate Board of New York, Inc., written submission dated December 5, 2007; Carol Von Gelder, oral comments (REB)
42. Riverkeeper, Craig Michaels, Investigator, (Natural Resources Defense Council and the Gaia Institute, co-commentators) written submission dated December 17, 2007 (Riverkeeper)
43. Sutton Area Community, Inc., Mary Clare Bergin, President, written submission dated December 5, 2007; Leonard I. Ladin, Vice President, oral comments and written submission dated December 5, 2007. (SAC)

44. Turtle Bay Association, Bruce Silverblatt, Zoning Land Use Chairman, oral comments (TBA)

**INTERESTED PUBLIC**

45. Joan Boyle, oral comments (Boyle)
46. Brenda Fine, written submission dated December 22, 2007 (Fine)
47. Joy Garland, undated written submission (Garland)
48. Barry Gleicher, oral comments and written submission dated December 5, 2007 (Gleicher)
49. Jin Han, oral comments (Han)
50. Robert Harris, written submission dated December 20, 2007 (Harris)
51. Kristen Hen, oral comments (Hen)
52. Mike Neely, oral comments (Neely)
53. Sena Parker, oral comments (Parker)
54. Alvin Phaler, oral comments (Phaler)
55. Julie Warshaw, written submission dated December 21, 2007 (Warshaw)
56. Gerald Wyckoff, oral comments and written submission dated December 5, 2007; Judith Wyckoff, written submission dated December 5, 2007 (co-author) (Wyckoff)

**C. COMMENTS AND RESPONSES**

**PROJECT REVIEW PROCESS AND PUBLIC PARTICIPATION**

**Comment 1:** Recognizing that absent the opportunity to sell the Waterside properties, Con Edison would have little incentive to relocate power generation from Waterside, business activities from 708 First Avenue, and parking from the garage on the bottom three floors of 708 First Avenue and parking lots on the riverfront at 616 and 685 First Avenue, CB6 in a November 1999 resolution and consistently since then has argued that all of these actions are inextricably interrelated and must be considered together, rather than segmented, in order to best understand their consequences and opportunities. (CB6-1)

**Response 1:** The consolidation of activities at the East River Generating Station and the disposition of the development parcels were previously approved and therefore are not subject to environmental review as part of the Proposed Actions. The East River Repowering Project began full operation in 2005, and the environmental impacts of that project, a discrete action with independent utility, were evaluated in the Article X review, and the impacts of that prior determination are not effects of the Proposed Actions. The 2004 FGEIS, which analyzed the potential for significant adverse impacts resulting from the disposition of the Con Edison parcels, contained a summary of the Article X approval process and it identified any potential for cumulative impacts of the repowering

project in conjunction with the disposition of the First Avenue development parcels. The FGEIS concluded that because of the distance separating the First Avenue parcels and the East River Station and the dissimilar nature of the activities proposed in each application, the repowering project had minimal bearing on the cumulative impacts associated with the disposition of the First Avenue development parcels.

**Comment 2:** The two previous environmental reviews did not anticipate that the consolidation of Con Edison’s activities at the East River Generating Station would result in closing 14th and 15th streets east of Avenue C, including the southbound exit from the FDR Drive at 15th Street and the southbound entrance at 14th Street, in response to post 9/11 concerns for security. (CB6-1)

**Response 2:** An Environmental Assessment Statement prepared by the New York City Department of Transportation (NYCDOT) examined the environmental effects of designating East 14th and 15th Streets between the FDR Drive and Avenue C, and Avenue D between East 13th and East 14th Streets, as Restricted Use Streets and closing on- and off-ramps to the southbound FDR Drive to vehicular traffic at East 15th and East 14th Streets. In October 2005, NYCDOT issued a Negative Declaration for the proposal, which concluded that no significant adverse environmental impacts were anticipated as a result of the actions. The baseline traffic and transit data used in this SEIS were gathered after these closures, and the SEIS impact analyses appropriately reflect a future condition in which those streets and ramps remain closed.

**Comment 3:** There should be public participation in the design and operation of the public open space through a formal agreement between ERRC and an organization such as the Department of Parks or a local parks conservancy. (CB6-1)

The developer should enter into a contract with an organization such as the New York City Department of Parks and Recreation or a local parks conservancy to operate the public open space (including the playground) for the developer. (CB6 Parks Cmte)

**Response 3:** Comment noted. The public has had multiple opportunities to comment on the design and operation of the proposed public open space during the EIS and ULURP processes. As described in Chapter 5, “Open Space,” the SEIS does not identify any significant adverse open space impacts. The restrictive declaration will ensure that the open space will be publicly accessible and maintained in a first-class condition.

**Comment 4:** It is disappointing that the Commission chose not to hold its hearing at a place and time more convenient for those seeking to testify. Many elected officials formally requested that the hearing be moved into the affected community and this was denied. As a result, the Commission will not hear from many residents of the neighborhood who cannot testify because this hearing is being held during the workday. (Garodnick)

The Commission should have a real open meeting, as the law dictates. This is a little bit on the side of violating the spirit, if not the letter, of the law. A large meeting in January in the evening, where all the people who are so deeply concerned, and so much opposed to this development can express their feelings. (MLC)

**Response 4:** The hearing process was held in conformance with all applicable laws and regulations. That process afforded all interested parties the opportunity to submit written comments following the completion of the December 5, 2007 public hearing.

**Comment 5:** Action on CB6s 197-a and 197-c has been held in the ULURP pipeline until the developer had a chance to catch up—this delay is antithetical to effective planning; it ignores CB6’s 197-c action and sends a message that the City prioritizes developer-driven development over community-based planning. The City needs to go beyond adopting the 197-a plan and advance to the point of taking its recommendations seriously and implementing them. (MASPC).

I am deeply disappointed by the City Planning Commission’s decision to consider the community’s 197-a plan simultaneously with ERRC’s 197-c proposal to rezone the former Con Ed properties. In order for the specific proposals for the Con Ed site to be analyzed and evaluated, an overall planning framework for the community must first be established. The 197-a plan provides just such a framework, and only by first considering that plan and establishing a comprehensive planning vision for the larger community, will the City Planning Commission and City Council have a context to appropriately evaluate the rezoning proposals. Although we have a developer’s proposal and a community’s proposal, the Planning Commission is taking the developer’s proposal into consideration prior to the community’s. (Krueger)

**Response 5:** Since Community Board 6 and the Applicant have differing recommendations relating to the development parcels, the City Planning Commission, to ensure that both proposals would be afforded equal treatment in the public review process, decided to consider both proposals at the same time and invoked Section 7.012 of *Rules for the Processing of Plans Pursuant to Charter Section 197-a*. Under this

provision, the Commission has extended its time for consideration of other 197-a plans (Red Hook, Greenpoint and Williamsburg) in order to facilitate a better planning process. The SEIS considers the similarities and differences between the goals and objectives of the Proposed Actions and those of CB6's 197-a plan in Chapter 2, "Land Use, Zoning, and Public Policy." In addition, some of the proposed 197-a plan's recommendations have been articulated in a 197-c application for the area east of First Avenue between East 35th and East 41st Streets. For a discussion of this 197-c application, see Chapter 24, "Alternatives."

**Comment 6:**

A comprehensive plan is clearly needed to ensure that each project in the area—rezoning of the development parcels, the Second Avenue Subway, rebuilding of the FDR between 59th and 34th Streets, expansion of the United Nations, redevelopment of portions of Bellevue and the NYU Medical Center campus, Heliport reconstruction, and construction of a new ferry terminal on East 34th Street—is not evaluated in a vacuum and that development which overwhelms the scale and services of surrounding neighborhoods does not take place. (Krueger)

**Response 6:**

The SEIS analyzes the potential for significant adverse environmental impacts resulting from the specific land use application submitted by ERRC. The SEIS is comprehensive in considering potential cumulative effects of the Proposed Actions and other area projects. Projects that are expected to affect area conditions by 2014 are included in the background conditions for the SEIS analyses. This allows decision makers to consider the effects of the Proposed Actions in the context of other proposals.

**Comment 7:**

To facilitate a potential park on the waterfront, redevelopment of the former Con Ed site, the rebuilding of the midtown section of the FDR, and the expansion of the Robert Moses playground need to be coordinated. One option is an elevated prospect around the Midtown Tunnel ventilator shaft, and a pylon providing access to a water level park directly at water level—the idea of this being to elevate people, not cars. In order to build the deck over the FDR the state Department of Transportation has stated that the highway needs to be moved about 30 feet to the west in order to allow space for the construction underneath the deck. This would require asking the developer of the former Con Ed site for an easement in order for the highway to be realigned and a deck to be constructed. The developers indicated that they're prepared to facilitate this, but the city needs to begin the planning process to indicate the shape of that easement, how it would be configured, what

## **First Avenue Properties Rezoning Final SEIS**

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the developer would donate. If we don't begin planning these things now it's going to be too late. Once the concrete starts to be poured, we'll lose the opportunity to create this waterfront park permanently and, therefore, this is a critical moment. (MAS)

**Response 7:** Reconfiguration of the FDR Drive is dependent on actions by the New York State Department of Transportation, over which neither the Applicant nor the City has control. With respect to project coordination, please see the response to Comment 6.

**Comment 8:** In its Draft SEIS, the Applicant states that the "project sponsor will consult with NYCDEP's Bureau of Water and Sewer Operations staff prior to issuance of the Final SEIS." However, this analysis needs to be completed prior to the finalizing of the EIS, and therefore included in a DEIS, or Draft SEIS, in order to provide for public scrutiny. (Riverkeeper, Gaia)

The Draft SEIS is inadequate both in process and in product, with the result that decision-makers and the public are deprived of the information necessary to assess the project and its impacts fairly and accurately. It doesn't follow CEQR and SEQRA requirements. (Riverkeeper)

**Response 8:** The Draft SEIS was prepared in conformance with all applicable procedures and regulations. Chapter 12, "Infrastructure" of the Draft SEIS found that the Proposed Actions would have no significant adverse impacts on infrastructure and on water quality, and the Final SEIS reaches the same conclusion. Between the Draft SEIS and the Final SEIS, the project sponsor has consulted with the Bureau of Water and Sewer Operations of the New York City Department of Environmental Protection (NYCDEP). The Bureau's concerns have been addressed and their comments incorporated in the Final SEIS. The information resulting from coordination with the Bureau of Water and Sewer Operations is available to the decision makers and public.

## **CHAPTER 1: PROJECT DESCRIPTION, PURPOSE AND NEED**

**Comment 1-1:** CB6 strongly opposes the application by ERRC for the rezoning of the former Con Edison Waterside properties unless the plan is modified to conform to the principles and goals of CB6's 197-a and 197-c plans. (CB6-1, CB6 Land Use Committee). CB6 recommends that its proposed 197-c plan be adopted in place of all aspects of the ERRC's 197-c applications that are in conflict with the community board's 197-a and 197-c plans. (CB6-1)

Despite the inclusion of permanently affordable housing and dedicated space for a new public school at the site, which are not reflected in the current applications, the proposed development will nonetheless have a significant adverse impact on the community immediately surrounding the sites. Incorporating elements of the CB6 197-c Plan would lessen this impact and would result in a better environment for both the present area residents and the future residents of the sites as well as the people who work in the area. Given the size of this undeveloped parcel of waterfront property, and its significance for both its neighbors and the city as a whole, ERRC should submit an amended proposal that is more closely modeled after CB6's 197-c Plan. (Duane)

The ERRC proposal should not be approved until it incorporates more of CB6's 197-c Plan, as it provides for primarily residential use and public open space as well as affordable housing and community facilities in a density that is in scale with the neighborhood. (Duane, SAC)

**Response 1-1:**

The 197-a plan is described in Chapter 2, "Land Use, Zoning, and Public Policy" of the SEIS and the 197-c application is evaluated in Chapter 24, "Alternatives." Chapter 24 analyzes the potential impacts of an alternative based on the CB6 197-c application relative to those identified for the Proposed Actions. The analyses indicate that in some respects, significant adverse impacts would be similar under the CB6 Alternative (such as for schools), diminished (such as for shadows, traffic, and transit), and in other respects additional impacts could occur (such as on open space). The SEIS also discusses the differences and similarities between the goals and objectives of the Proposed Actions and the CB6 197-a plan.

Since the issuance of the Draft SEIS, ERRC has submitted a revised ULURP application that addresses concerns raised by the commentators. The revised application would facilitate the provision of affordable housing through the designation of the 616, 700, and 708 First Avenue parcels as an Inclusionary Housing designated area. In addition, the City Planning Commission (CPC) is considering further modifications to the Applicant's proposal in light of CPC's concurrent review of CB6's 197-a plan.

**Comment 1-2:**

The ERRC proposal adopts the inelegant construct of permissive remapping and special permits combined with restrictive declarations to try to achieve results better accomplished through a special zoning district. (CB6-1)

## **First Avenue Properties Rezoning Final SEIS**

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- Response 1-2:** The large-scale development special permit, with an accompanying restrictive declaration, is an established zoning tool for regulating development on large sites. See also response to Comment 1-27.
- Chapter 24, “Alternatives,” analyzes a “CB6 Alternative” which is based on the 197-c application filed by CB6. Under that alternative, a special district would permit floor area bonuses for the provision of open space and affordable housing, and it would contain requirements related to use, building heights, treatment of the eastward prolongations of East 39th and East 40th Streets east of First Avenue, open space improvements, and accessory parking limits.
- Comment 1-3:** CB6 supports residential use with supporting retail, service, and community facility uses but not office use and, therefore, rezoning to C1-9 instead of C5-2 and C4-6. (CB6-1)
- Response 1-3:** Comment noted. Chapter 2, “Land Use, Zoning, and Public Policy,” considers the potential effects of the Proposed Actions and finds that the inclusion of an office use would not result in significant adverse impacts to land use, zoning, and public policy. The CB6 Alternative assessed in Chapter 24, “Alternatives,” would rezone the development parcels to C1-9.
- Comment 1-4:** There is concern that the C4-6 and C5-2 districts might eventually be used for office buildings. (CB6 Zoning Memo)
- Response 1-4:** The restrictive declaration recorded against the property would require that any development of the property may proceed only in accordance with the specific plans and drawings approved by CPC. In order to modify the plan, it would be necessary to amend the restrictive declaration. Therefore, without such actions, the 616 First Avenue, Waterside, and 685 First Avenue parcels could not be developed with office uses.
- Comment 1-5:** Noting that the proposed development is largely residential, except for the mixed-use building on the west half of the 708 parcel, it is suggested that Large-Scale Residential Plans be considered instead of General Large Scale Plans. (CB6 Zoning Memo)
- Response 1-5:** The proposed development would not meet the definition of a Large-Scale Residential Development under the Zoning Resolution. A Large-Scale Residential Development must be predominantly residential and must be located entirely in a residential zoning district or in a C1, C2, C3, or C4-1 zoning district. In contrast, the proposed development would include 1,532,437 square feet of commercial office floor area out

of a total 5,109,056 feet floor area in the large-scale development and would be located in a C5-2 zoning district.

**Comment 1-6:** Total density, including any bonus floor area, should be no more than 10.0 FAR, excluding from lot area the formerly mapped portions of 39th and 40th Streets and the remaining transformer station, which is consistent with the greatest density of the surrounding areas. (CB6-1)

**Response 1-6:** Comment noted. Chapter 24, “Alternatives,” compares the potential for significant adverse environmental impacts to result from the 10.0 FAR development program of the CB6 Alternative and the 12.0 FAR proposed development program .

**Comment 1-7:** The gross floor area seems considerably greater than the zoning floor area, more so on some parcels than others. Seems that the buildings are larger than they should be and larger than analyzed in the GEIS. (It may be that the difference is large garage areas, mechanical space, and uses in cellars, none of which count as zoning floor area.) (CB6 Bulk Memo)

**Response 1-7:** The SEIS analyzes all proposed uses and accounts for the full square footage of the proposed development program. Gross floor area is always larger than zoning floor area, as it includes all cellar areas and all areas described as “not included in floor area” as set forth in Section 12-10 of the NYC Zoning Resolution. Examples of above-grade deductible space are loading docks and mechanical space. The NYC zoning regulations control zoning floor area, not gross floor area.

**Comment 1-8:** CB6 supports treating 39th and 40th Streets as streets for all zoning purposes, including lot area, height and setback, and open space, so as to ensure views along streets and public access between First Avenue and the waterfront, which is best accomplished by mapping as City streets. (CB6-1, CB6 Bulk Memo, CB6-Rubin) The developer’s proposal keeps the streets private, which means (i) that the developer gets to build even bigger buildings because the unmapped streets generate additional floor area, the equivalent of 14.5 FAR instead of 12.0, and (ii) that access to the waterfront via these streets, another public good, can never be fully guaranteed. (CB6-1)

East 39th and 40th Streets need to be restored to the public domain in order to ensure that there is twenty-four hour public access from First Avenue to the riverfront, and to ensure that the main public open spaces are truly public. (CB6 OS Memo, CB6-Frank and Rubin)

The super-block is no longer justified either for industrial efficiency or for security, as it may have been when created during World War II.

The direct result of leaving the streets unmapped is that the total zoning floor area on the site is increased by a full 576,000 square feet (48,000 sf area of streets times 12.0 FAR).

Remapping streets would improve public access to the proposed open space on the development site, would allow the Police Department to patrol the area regularly, and would help reduce the size of the towers permitted to be constructed on the property. Unfortunately, the ERRC has chosen not to integrate the community board's ideas into its plans, and fails to provide a direct link between the neighborhood and the waterfront itself. (Krueger)

We need to reconstitute the grid for the two missing streets for two reasons: one, to get back the FAR rating that we deserve and not to give that away, and secondly because we need to, in some way, make it possible for the people to get into the property. I don't know how the residents are going to get in. (MLC)

We are very concerned about the street grid. The public purpose of the street turned over to Con Ed has ceased to exist. Does it now simply morph into private property to be sold to the developer and included in the FAR calculations? I fail to see the logic of that. The privatization of public space is a discussion you may be hearing about with regard to parks. The privatization of public space is the same issue. We don't need that. We need view corridors. The West Village and Rome are good examples of the value of the street grid—to see the view corridors and have that street wall. (CB6-Imbimbo)

The northern parcel proposed for rezoning is a superblock created when the City demapped 39th and 40th streets between First Avenue and the FDR Drive, and deeded them to Con Edison. It was never contemplated that this large site would be devoted to residential and commercial development, and the appropriate densities for such development must be considered now, before new zoning is adopted. The same density that would be appropriate for a standard city block can lead to a distorted development pattern and undesirable density on a superblock uninterrupted by City streets. On the superblock parcel, an 8.5 FAR is sufficient to enable development comparable to 10 FAR on a standard City block. (Stringer)

**Response 1-8:**

The Proposed Actions would not remap the alignments of East 39th and 40th streets, nor treat the former streets as public streets for zoning purposes. Remapping the streets would be inconsistent with the overall design objective of the Proposed Actions, including the provision of a larger, more contiguous and pedestrian-friendly open space area on the 700 and 708 First Avenue parcels. Chapter 24, "Alternatives," analyzes the CB6 Alternative in which the alignments of East 39th and 40th

Streets are treated as mapped streets. Because of the presence of the FDR Drive, remapping East 39th and 40th Streets would not provide direct physical access to the waterfront. However, The SEIS did not identify any significant adverse impacts with respect to access to the waterfront. In addition, the proposed development program would ensure view corridors and pedestrian ways along these former streets, provide new waterfront views, and enhance public access to the waterfront through the widening of a sidewalk on East 36th Street (between First Avenue and the FDR Drive Service Road).

While the development parcels are not located directly adjacent to the East River, the open space planned for the 700 and 708 First Avenue parcels would provide views of the East River waterfront (as illustrated in Figures 8-26 and 8-27 of Chapter 8, “Urban Design and Visual Resources”), and could provide new access points to the East River Esplanade depending on the location of future public walkways. The accessibility of the proposed open spaces would be ensured through the recording of a restrictive declaration against the property. The public access requirements of the restrictive declaration would be binding on all future property owners, including any condo association.

Residents of the proposed development program would be able to access the development by auto through garage entrances and via the alignment of East 39th Street, a portion of which would be used for vehicle drop-offs. Like all pedestrians, they would also be able to access the proposed public open space on the 700 and 708 First Avenue development parcels from various entry points.

**Comment 1-9:**

The previous site plan [included in the November 3, 2005 Draft Scope of Analyses] had 39th and 40th Streets extend across the site and connect via a north-south segment near the promenade making a loop. The current design [in the Draft SEIS], except for a short section of 39th Street used for access to the lobbies of the residential buildings, excludes vehicles except in emergencies. The point is whether the open space is perceived as part of the public realm.

The extensions of 39th and 40th Streets lack the design elements, such as sidewalks, curbs, and proportional street walls, which one perceives as signifying public streets. The challenge is to design a better street, coherent with the landscape plan, not to literally extend the streets. As a start, a design might replace the usual asphalt and concrete with Belgian block and slate or hex pavers, include additional rows of trees, use rolled curbs, and add benches and planting beds. (CB6 OS Memo)

It’s important to re-map those streets, not only for the feeling that they be public in nature, as they once were, but also for the issues of police,

fire, and safety that are out there. East River Realty Company has given assurances about this; however, we have had experiences around the city where initial proposals change over time as residents of the building get antsy and wonder why they end up paying for upkeep because they're private streets and not a city map, after all. (Garodnick)

Treating the extensions of 39th and 40th Streets as if they were mapped streets will allow the important city services, police, fire protection, and sanitation uninterrupted access throughout the community. (CB6-Buchwald)

**Response 1-9:**

The Proposed Actions would restrict vehicle access along the alignments of East 39th and 40th Streets, while ensuring public accessibility through a restrictive declaration placed on the development parcels, as described in the response to Comment 1-8. As described in Chapter 8, "Urban Design and Visual Resources" of the SEIS, the open space on the 700 and 708 First Avenue parcels would meet First Avenue at grade, and the western portion of the open space adjoining the avenue would be a large lawn. This lawn, and the pedestrian ways along the alignments of East 39th and 40th Streets, would meet the sidewalk on First Avenue and there would be no curb cuts or other changes in level. In addition, there would be no trees along the avenue between the alignments of East 39th and 40th Streets to increase the open space's openness to the street. These design features would create a more visible and inviting open space and create additional visual connections from First Avenue toward the East River waterfront. Further, an Information Plaque and two Entry Plaques are proposed along First Avenue. Each Plaque would clearly state that the open space is fully accessible and open to the public during its operating hours (6 AM to 12 midnight).

In addition, the plaza design incorporates street trees, lighting, and paving to clearly continue the sight lines and pathways of the east-west streets, allowing for a visual and pedestrian continuity of East 39th and 40th Streets to the promenade overlooking the East River. By disallowing vehicular traffic, with the exception of a drop-off driveway for part of the alignment of East 39th Street, the plan avoids curbs and roadways and creates a larger pedestrian-friendly plaza with shade trees, seating, and lighting. In this way, the pedestrian area of the plaza would be made larger and more continuous than if vehicular streets had been created. At the same time, the new plaza pathways would support emergency vehicle and police control circulation around the site. The open space is envisioned as a pedestrian zone, designed without the use of curbs and/or abrupt level changes, thus allowing for maximum safety and accessibility for all users of the open space, including the elderly,

parents with strollers and young children, bikes, and people with physical disabilities.

The Applicant proposes not to connect the East 39th and 40th Street alignments with a north/south loop, but would instead dedicate the eastern edge of the site to pedestrians, with a promenade of at least 30 feet in width provided at the easternmost edge. This promenade would allow pedestrians to enjoy overlooking the river's edge. A north-south loop road would have the effect of breaking the site into public and private precincts, thus compromising the continuous public nature of the three blocks between East 38th and 41st Streets.

Chapter 24, "Alternatives," includes a CB6 Alternative that treats (for zoning purposes) the eastern alignments of East 39th and 40th Streets as remapped streets, and compares the potential for that alternative and the Proposed Actions to result in significant adverse impacts. The analysis compares the view corridors of the proposed development program to those of the CB6 Alternative, and finds that neither the Proposed Actions nor the CB6 Alternative would result in significant adverse impacts on visual resources.

**Comment 1-10:** The developer's proposals have been limited to the bounds of the properties that it controls. Therefore, the proposals are mute as to the essential open space opportunities—public access to and along the riverfront. A larger view, that puts the redevelopment of the Con Ed properties into an urban planning context, makes the necessity of extending 39th and 40th Streets obvious. (CB6 OS Memo)

**Response 1-10:** While the Proposed Actions would not create new physical connections to the waterfront, the proposed development program would not preclude, and would be compatible with, such connections in the future as described in Chapter 1, "Project Description." Under the Proposed Actions, the alignments of East 39th and 40th Streets would not be treated as vehicular streets, but they would be pedestrian ways that would create view corridors toward the waterfront. In addition, the proposed esplanade along the eastern edge of the Waterside and 708 First Avenue parcels would provide new waterfront views. It should also be noted that the pedestrian ways along the alignments of East 39th and 40th Streets would not, in and of themselves, afford public access to the waterfront. See also the response to Comment 1-9.

**Comment 1-11:** The greater density afforded by inclusion of 39th and 40th Streets in the FAR calculations results in greater impacts on schools, safety, traffic, and transit. It also results in taller buildings that have greater shadow

and aesthetic impacts. A significant reduction in the permitted density would go a long way toward ameliorating these concerns. (Garodnick)

The Society finds CB6's position that the density be calculated based on a FAR of 10-12 but without including the area of the former 39th and 40th Streets to be compelling. We find it hard to believe that, in midtown Manhattan, it would not be economically viable to develop the sites at that density without the FAR generated by the land formerly occupied by public streets. Further, reducing the density that is currently proposed would allow several beneficial options that would mitigate the project's impact, such as reducing the height of several of the buildings, reducing the footprint of the commercial building and generally reducing the impact on traffic, schools, open space, and other neighborhood aspects. (MAS)

The community wants less density by not having 39th and 40th Streets used in FAR calculations. We urge the Department of City Planning to reject the developer's request for a FAR of 12. (CB6-Arcaro)

The ERRC proposal would lead to significant over-development that is inappropriate for the far East Side of Manhattan. It would severely overburden local services and infrastructure, would have disastrous effects on the area's traffic and public transportation, and would cast significant shadows over the neighborhood's already limited open space. (Krueger)

The density of the developer's proposed plan would bring the equivalent of a small town of new residents and traffic to the heart of midtown. The resulting pressures would overwhelm an already overtaxed infrastructure. We appreciate Mayor Bloomberg's efforts to reduce traffic congestion in New York and therefore trust that CPC will not approve a rezoning at cross-purposes with this laudable goal. (MLC)

As our New York City Government has proven to be incapable of addressing traffic congestion, transportation, high school education, and public safety for our existing population, we should not take a chance and permit more building in a neighborhood where essential services are not being provided. (Gleicher)

The ERRC proposal is simply too large, too tall, out of character with the neighborhood, lacks deference to the iconic United Nations complex, creates excessive shadows on our parks and open spaces, contains too much parking, and generates too much traffic. (CB6-Rubin)

The ERRC plan is too big and dense. This will be a blight on the area and the amenities do not compensate for the size and damage. Also, I do

not think that such a huge building should be built across the street from the only park in the area (Robert Moses). (Harris)

ERRC's plan does not meet the needs of the community and brings with it aspects that have a negative impact on what could be a magnificent plus for advancing New York City's plan for sustainable development. The community needs more affordable housing; more open space, child care, and senior centers; and, less office space. It also needs access to the waterfront with no out-of-scale residential towers that cast long shadows, and development that takes into consideration the effect on the infrastructure and traffic congestion of the area. (Garland)

If the plan proposed by ERRC were implemented, it would not only decrease the quality of life of East Side residents, but also exacerbate many of the issues that have plagued our city and that this mayoral administration has taken bold steps to try and overcome. Congestion, lack of open space, and overcrowded schools would all suffer setbacks from a plan of this scale. (Mendez)

The developer's plan should be reduced in density to be in scale with the other rezonings made by City Planning east of First Avenue in the recent past (10+ FAR). (CB6-Buchwald)

The taking out of the streets and the zoning capacity or the density capacity which that adds is something which is important, because we consider the number of units and the number of people that will come to this particular development and how they will tax our infrastructure which will really create challenges for our community. (Garodnick, Duane)

The density of development should be reduced to a level that is appropriate for a superblock, and would lessen anticipated environmental impacts. (Stringer)

**Response 1-11:**

The SEIS comprehensively analyzes the potential for significant adverse impacts resulting from the development density proposed by the Applicant, and identifies practicable mitigation when such impacts are identified. Chapter 24, "Alternatives," contains an analysis of the potential for significant adverse impacts resulting from alternatives with a reduced density, and compares the potential impacts to those identified for the Proposed Actions. As cited in the response to Comment 1-1, the analyses indicate that in some respects, significant adverse impacts would be similar under the CB6 Alternative (such as for schools), diminished (such as for shadows, traffic, and transit), and in other respects additional impacts could occur (such as on open space). All of the environmental areas of concern cited by the commentators above are considered in the SEIS.

## First Avenue Properties Rezoning Final SEIS

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- Comment 1-12:** The density of the proposed development should be reduced. This is particularly true on the northernmost portion of the project where the density proposed by the developer is, in effect, artificially inflated by the fact that East 39th and East 40th Streets were demapped many years ago to accommodate Con Edison’s Waterside plant. Our community, which is already overburdened in ways that are amply documented even in the developer’s own environmental impact analysis, simply cannot absorb the density currently proposed. (Kavanagh)
- Response 1-12:** In Chapter 24, “Alternatives,” the CB6 Alternative evaluates the potential impacts of a development with less density. With respect to the commentators claim that the proposed development program’s density is artificially inflated by the demapped East 39th and East 40th Streets, the alignments of East 39th and 40th Streets east of First Avenue are private property and therefore are treated as such in the SEIS. See also the response to Comment 1-8.
- Comment 1-13:** The enormous size of this rezoning will have broad ramifications far beyond the specific blocks being considered for significant up-zoning. (Krueger)
- Response 1-13:** The SEIS follows *CEQR Technical Manual* guidelines in establishing study areas within which the potential for significant adverse impacts are analyzed. These study areas extend beyond the parcels being considered for rezoning.
- Comment 1-14:** CB6 opposes special permits (section 74-74) being issued to modify height and setback for 616 First Avenue, and 685, 700, and 708 First Avenue, unless the buildings are limited in height to 400 feet. (CB6-1)
- Response 1-14:** Comment noted. An alternative based on the CB6 197-c plan, which limits building heights to 400 feet, is analyzed in Chapter 24, “Alternatives.”
- Comment 1-15:** Special permits should not be issued for an accessory parking garage at 700 and 708 First Avenue and for public parking garages at 616, 700, and 708 First Avenue, and parking should be limited to 10 percent of the dwelling units. (CB6-1)
- Response 1-15:** Comment noted. Chapter 24, “Alternatives,” analyzes the CB6 Alternative, which limits parking to 426 accessory spaces (approximately 10 percent of the CB6 Alternative’s dwelling unit count).

**Comment 1-16:** ERRC’s proposal requires 17 stunning precedent-setting zoning amendments, special permits, and certifications in order to achieve what is too tall, too dense, too commercial, and too much traffic snarl. It’s a development that maximizes everything, but is not compatible with the surrounding residential neighborhood. (CB6, Garodnick, Parker, CB6-Peveri)

**Response 1-16:** The SEIS analyzes the project’s potential for significant adverse neighborhood character impacts, and concludes that there would not be such impacts. The development parcels are located in what is currently a high-density mixed-use neighborhood, and while the proposed development program would add population and traffic to the area, it would not change the neighborhood character in a significant way. See also the response to Comment 9-2.

**Comment 1-17:** Special permits should not be issued concerning plazas at 616, 700, and 708 First Avenue. The plaza should not be bonused, but be provided as mitigation, and affordable housing be provided for a bonus. (CB6-1)

The commercial zoning districts that are proposed for the entire Con Ed site allow a plaza bonus (rather than open space as mitigation for rezoning) instead of an inclusionary housing bonus. (CB6 Bulk Memo)

**Response 1-17:** As detailed in Chapter 1, “Project Description,” of this Final SEIS, since the issuance of the Draft SEIS the Applicant has submitted a revised ULURP application wherein the Proposed Actions would facilitate the provision of affordable housing through the inclusion of the 616, 700, and 708 First Avenue parcels as an Inclusionary Housing designated area. This designation would provide bonus floor area for the construction or preservation of affordable housing on the development parcels and/or within 1/2-mile of the Inclusionary Housing designated area. Under the Proposed Actions, approximately 2.82 acres of the project’s 4.84 acres of publicly accessible open space are bonusable, with 1.49 acres required to achieve the bonus FAR sought by the proposed development program.

**Comment 1-18:** CB6 supports the following certifications requested in ERRC’s application:

- To modify design standards for plazas at 616 First Avenue for a mixture of tree sizes;
- To omit required streetwall transparency along FDR service road at 616 First Avenue;
- To omit required retail continuity along the FDR service road at 616 First Avenue;

- To omit required streetwall transparency along the FDR service road and reduce street wall transparency along 38th and 40th Streets at 700 and 708 First Avenue;
- To allow curb cuts at 700 and 708 First Avenue along the FDR Drive service road and a second curb cut on 41st Street; and
- To omit retail continuity along the FDR service road at 700 and 708 First Avenue.

However, CB6 recommends that the plaza be provided as mitigation and not bonused. (CB6-1)

**Response 1-18:**

Comment noted. Regarding the recommendation that the plaza be provided as mitigation, it should be noted that the SEIS does not identify any significant adverse open space impacts requiring mitigation. Under the Applicant's revised application, only 1.49 of the 4.84 acres of open space would generate an FAR bonus.

**Comment 1-19:**

The developer's proposal does not include a single unit of affordable housing; it rejects affordable housing in spite of the growing trend to its inclusion in rezonings such as Greenpoint-Williamsburg and Hudson Yards. (CB6-1) Affordable housing is desperately scarce in the city as a whole and particularly in the east side of Manhattan. It would be an unconscionable oversight to implement zoning changes, at least in Manhattan, without including strong incentives or mandates for the provision of affordable housing. (Mendez)

CB6 recommends that an affordable housing plan for the sites include the following: 2 FAR bonus for affordable housing; the affordable housing should include tiers reflective of the range of middle-income families being priced out of the neighborhood [a range of incomes from as low as 80 percent of area median income (AMI) to as high as 175 percent of AMI]; affordable units should be permanently affordable, on-site rental, integrated throughout development, preference for local community; the developer should not be precluded from using other public subsidies, bond financing tax abatement or tax credits including 80/20 and other such programs; the developer should not have to utilize a nonprofit to administer affordable housing units. (CB6 Housing Memo)

**Response 1-19:**

As detailed in Chapter 1, "Project Description," of this Final SEIS, since the issuance of the Draft SEIS the Applicant has submitted a modified ULURP application wherein the Proposed Actions would facilitate the provision of affordable housing through the inclusion of the 616, 700, and 708 First Avenue parcels as an Inclusionary Housing designated area. This designation would provide bonus floor area for the construction or preservation of affordable housing on the development

parcels and/or within 1/2-mile of the Inclusionary Housing designated area or the Community District. Under the Inclusionary Housing program, developments taking advantage of the full bonus must provide permanently affordable, lower-income housing (for households below 80 percent of AMI) equal to at least 20 percent of their residential floor area.

The SEIS, through its Affordable Housing Scenario for the Proposed Actions, analyzes and discloses the potential for significant adverse impacts generated by the introduction of 833 on-site affordable housing units that would generate an estimated 2,082 low- to moderate-income residents. The low- to moderate-income population assumed for the Affordable Housing Scenario for the Proposed Actions is greater than the amount anticipated through use of the proposed Inclusionary Housing text amendments.

**Comment 1-20:**

At least 20 percent of the apartments should be permanently affordable and mixed throughout each of the apartment buildings, encouraging a socially and economically diverse community. (CB6-1)

A substantial component of affordable housing is necessary on site to maintain the economic and cultural diversity of the community and avoid the Con Ed property becoming a ghetto of the very rich. (CB6 Zoning Memo)

At least 20 percent of the housing units provided under this plan should be new units of affordable housing built on site. If the announcement that there will be affordable housing means simply preserving existing units or doesn't meet the 20 percent, on-site threshold, then it is insufficient. (Mendez)

We have to go further than 30 percent for affordable housing. It is my understanding that the developer has agreed to include five of the seven proposed towers in the city's new "inclusionary housing designated area" program (685 First Avenue and the proposed commercial building would be excluded). Under this revised plan, the ERRC will only be permitted to build the five towers with the square footage it desires (a FAR of 12) if it constructs or preserves affordable housing units that contain total square feet equal to 20 percent of the towers. Unfortunately, because the revised plan excludes 685 First Avenue, which is the largest of the proposed residential buildings, from the Inclusionary Housing Plan, the total number of affordable units created or preserved will only be equivalent to approximately 13 percent—rather than 20 percent—of the total square feet of residential space developed. As such, the revised First Avenue Properties rezoning plan is not acceptable in its current form. Given the affordable housing crisis

facing the city of New York, and the size of the economic benefit that the developer will obtain as a result of the city's rezoning of the property, the provision of 13 percent affordable housing is insufficient. The Department of City Planning should require 20 percent onsite permanently affordable housing. This requirement should apply to all the buildings developed on the properties, and include the commercial floor area in the bonus structure, as occurs in the Clinton Special District. (Krueger)

I think that affordable housing should absolutely be on site. I know how difficult it is to find locations in any of the boroughs, particularly in Manhattan, something that I have communicated in writing to the chair. (Lappin)

Only the properties that are being upzoned for residential use would generate an affordable housing obligation, and the Applicant makes no commitments as to how that obligation will be met. This is a start, but it is not enough. The entire property should be placed in the proposed "inclusionary housing designated area." Commercial floor area, if there were any, should also generate an affordable housing obligation. And the obligation should be met, as much as possible, with newly built affordable apartments on site. (Garodnick)

We should consider the developer's proposal to provide a total of 620 affordable units out of the proposed 4,200 units—or about 15 percent of the total—to be a starting point for negotiations but not sufficient to justify the massive zoning changes the developer seeks. (Kavanagh)

The Applicant should strengthen the affordable housing by working with the community on the specific terms through which the program's requirements would be satisfied. Specifically, affordable housing should be built on-site and fully integrated within the development, or, if built off-site, built within Community District 6. The "preservation" and "rehabilitation" options for inclusionary housing must be used, if at all, with discretion and respect for community priorities. These options could be legitimately used to, for example, ensure the permanent affordability of a significant stock of affordable housing in the community that would otherwise have been immediately lost to market rates. However, minor upgrades or improvements to existing housing, or preservation of housing whose affordability was in little immediate danger, would certainly not be in keeping with the spirit of the City's inclusionary housing program or the community's affordable housing goals. (Stringer)

The commitment to use the Inclusionary Housing Bonus could be enhanced and strengthened by placing *all* properties, rather than just those on the east side of First Avenue, in the "inclusionary housing

designated area.” This would make it likely that an amount equivalent to a full 20 percent of the residential floor area would be devoted to affordable housing. Amending the text further to include commercial floor area into the bonus structure, as occurs in the Clinton Special District would generate even more affordable housing. (Stringer)

The affordable housing commitments can be improved by exploring the inclusion of commercial floor area within the bonus structure and working with the community to satisfy the inclusionary housing commitment in a way that meets community goals and priorities. (Stringer)

**Response 1-20:** Please see the response to Comment 1-19. The SEIS did not identify any significant adverse impacts that would require the provision of affordable housing as mitigation. Chapter 3, “Socioeconomic Conditions,” finds that the proposed development program would not result in significant adverse indirect residential displacement impacts.

**Comment 1-21:** CB6’s 197-a and 197-c plans see the waterfront as the community’s main opportunity for open space and they call for a continuous esplanade along the riverfront and access to as many streets as possible. In the vicinity of the former Con Ed properties this requires that the redevelopment of the sites be coordinated with the scheduled rebuilding of the FDR Drive, the proposed new building for the United Nations, the new ferry landing at 35th Street and another landing at 42nd Street and their connections to cross town transit, pedestrian bridges and potentially decks above the highway, an easement is needed along the east edge of the East River Realty’s properties to allow the highway to be realigned further west, leaving more space along the river for the esplanade. The redesign of the highway needs to include eliminating or shortening the northbound exit ramp at 42nd Street in order to allow 39th and 40th Streets to include pedestrian bridges spanning the highway. East River Realty’s modified site plan seems compatible with these possibilities but there are no commitments with respect to either coordination or easements. (CB6-1, CB6 OS Memo)

While it is not the developer’s sole responsibility to fulfill the City’s policy goal of creating a “green necklace” of accessible waterfront open space around Manhattan, the creation of such open space will be a critical element in whether the proposed project will be viewed as an asset to the area or a wall of development blocking the city from its riverfront. The Borough President has made the development of waterfront public open space at this site a top priority, and continues to urge the City to act to realize it, and the Applicant to do everything

possible to ensure that its plan will be compatible with such a plan. (Stringer)

The development of the properties also has the capacity to co-exist well with the community's waterfront open space goals, thanks to the Applicant's stated willingness to consider providing a necessary easement for the relocation of the FDR Drive. To their credit, the Applicant has for some time publicly stated amenability to permitting such an easement, and has always supported the community's goal of creating as much waterfront open space in the area as possible. (Stringer)

**Response 1-21:**

Comment noted. The waterfront area referenced by the commentator between East 34th and 59th Streets is not owned or controlled by the Applicant. The SEIS considers the potential impacts of the proposed development program in the context of the surrounding area and what is projected to occur in the area by 2014. The SEIS technical analyses reflect the most current understanding of the various plans for the study area, including NYSDOT's plans for the FDR Drive, as well as the possibility of a UNDC building on Robert Moses Playground. As described in Chapter 1, "Project Description" of the SEIS, the proposed open space on the Waterside and 708 First Avenue development parcels would allow for the possibility of new access points to the East River Esplanade in the future, in order to facilitate the City's long-standing objective of increasing public access to the waterfront. Further, as described in Chapter 1, "Project Description" and Chapter 8, "Urban Design and Visual Resources," the proposed development program would not be "a wall of development blocking the city from its riverfront." The alignments of East 39th and 40th Streets would provide view corridors through the 700 and 708 First Avenue parcels toward the waterfront, as well as landscaped pedestrian ways through the parcels to the promenade that would run along the parcels' eastern edge overlooking the East River, and the central portion of the parcels would be a large publicly open space that would be open to First Avenue without any curbs or other changes in grade at the avenue. Chapter 24, "Alternatives," analyzes the potential for significant adverse environmental impacts of the CB6 Alternative, which includes the possibility of waterfront open space.

**Comment 1-22:**

How might the landscape plan change if the portion of the site between 40th and 41st Streets were occupied by residential buildings rather than an office building? The response, that the design team was not asked to study that alternative, is insufficient. The same question might be posed with respect to other possible modifications of the site plans of the five blocks. (CB6 OS Memo)

**Response 1-22:** Chapter 24, “Alternatives,” considers a 12 FAR All-Residential Alternative in which two residential buildings are located on the 708 First Avenue site (between East 40th and 41st Streets), and the chapter includes an illustrative site plan (Figure 24-22) for the alternative. Under this alternative, the large, publicly accessible open space on the 700 and 708 First Avenue site would largely be similar to that of the proposed development program. The alternative’s site plan would differ in that the footprint of the two residential buildings on the 708 First Avenue site would be located closer to the alignment of East 40th Street—the footprint of the office building in the proposed development program would be set back more from the pedestrian way along the alignment. Under the All-Residential Alternative, at the eastern edge of the 708 First Avenue site there would be somewhat more publicly accessible open space than there would under the Proposed Actions. This is due to the different footprints of the residential buildings and the office building. Under the restrictive declaration for the Proposed Actions, any substantial changes to the approved site plan would require review by the City Planning Commission.

**Comment 1-23:** Pedestrian access to the planned East River Park could be guaranteed by the creation of a permanent easement from the 700/708 parcel to an anticipated pedestrian bridge over the FDR Drive, something which should be negotiated with the New York State Department of Transportation as an integral part of the ERRC effort. (CB6 Transp Cmte)

**Response 1-23:** The proposed development program does not preclude future public access to the waterfront via construction of pedestrian bridges. A permanent easement is not required to provide public access from the Waterside and 708 First Avenue parcels to a (future) pedestrian bridge over the FDR Drive. The proposed design for the public plaza on the Waterside and 708 First Avenue parcels would allow for pedestrian access across the site to a future potential pedestrian bridge over the FDR Drive. Pedestrian access across the site will be governed by the restrictive declaration to be recorded against the property in connection with the rezoning.

**Comment 1-24:** This project will bring needed high-quality, well-designed residential and commercial space to the neighborhood, replacing power-generating facilities and related industrial uses. It will be a magnificent asset to the community and the city. (REB)

The Applicant has filed an amendment to their application to use the Inclusionary Housing Bonus instead of the plaza bonus at certain

**First Avenue Properties Rezoning Final SEIS**

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developments, pursuant to the City’s new “inclusionary housing designated area” program. The base FAR would be lowered to 9, with the maximum FAR of 12 achievable only through the creation of affordable housing. This is a significant and commendable step forward towards making this development meet the Citywide and community goals of keeping Manhattan affordable and livable for working and middle-class families. (Stringer)

**Response 1-24:** Comment noted. The text amendment related to Inclusionary Housing is described in Chapter 1, “Project Description” of the Final SEIS.

**Comment 1-25:** I am pleased that the Applicant has heard our call to include affordable housing in its development plans. (Kavanagh, Maloney, Duane, Parker)

**Response 1-25:** Comment noted. See the response to Comment 1-19.

**Comment 1-26:** The ERRC plan will bring an exciting mixed-use development to the East River waterfront. It’s high quality, well-designed residential and commercial space replacing now vacant lots that were the Con Ed power plants before. (REB)

**Response 1-26:** Comment noted.

**Comment 1-27:** The inclusion of 685 First Avenue in the General Large Scale Zoning district makes no sense. The site is correctly zoned. The enormous building that results from transferring rights back and forth across First Avenue ensures the destruction of the Tudor City Greens. There is no good reason to rezone this contextually zoned site or to include it with the properties across First Avenue just so the new structure can be the largest building in the area. (CB6-Buchwald)

The City Planning Commission should keep First Avenue’s current residential zoning and exclude it from the General Large Scale Development. (CB6-Buchwald)

685 First Avenue should retain its currently designated C1-9 zoning and not be a part of the General Large Scale Development Plan. It should not be rezoned to C5-2. (CB6-1)

The purpose of Large Scale Development Plans is to create superior site planning across many different lots that are integrally related to one another. This text amendment does not appear to be in keeping with the general principles of General Large Scale Development. The proposed text amendment allows the integration of a building to the west of the General Large Scale Development that will not be incorporated in location, function or form. This raise the question of what public

purpose is served by providing an exception to the normal framework which requires each building to be an integral part of the plan. (Stringer

Since the General Large Scale Development does not represent superior site planning and unduly burdens the neighborhood's light and air, most if not all of these modifications may be unnecessary after appropriate redesign. While these modifications may meet the required findings, they will likely be reconsidered if the site plan subject to the General Large Scale Development plan is significantly redesigned. (Stringer)

This text amendment allows the development to create an unbalanced distribution of amenity versus density. A typical bonus places the plaza amenity on the zoning lot that is receiving the additional density. This bonus creates an undesirable redistribution. Smaller buildings or smaller plazas on individual zoning lots, would be preferable then this relocation. Further, the purpose of this particular application creates one large plaza on the site east of First Avenue, rather than utilizing the inclusionary housing bonus. It is not clear that an overly large plaza would be preferable to including 685 in the inclusionary housing designated area and providing additional affordable housing. (Stringer)

**Response 1-27:**

The 685 First Avenue block is an essential component of the whole development, in which an integrated site plan has been proposed with respect to building heights, massing, building configurations, and landscape elements. The design of all the residential buildings is characterized by slender towers with footprints that allow a maximum amount of public open space. This large public open space is linked to the 685 First Avenue building through the use of a public plaza bonus on the 685 First Avenue parcel, generated from a plaza on the 700 and 708 First Avenue parcel. The buildings on the east side of First Avenue are oriented in an east-west direction, while the building on the west side of the avenue (685 First Avenue) is placed in a north-south alignment, serving as a “backdrop” for the ensemble across the street. The requested General Large Scale Development special permit would allow a tower form consistent with the master plan massing strategy for the entire project; all the buildings on the “North Site” are included in a single General Large Scale Plan. Use of the General Large Scale Development enables the entire “North Site” to be planned as a single, integrated whole.

The site is presently zoned C1-9, which permits 10 FAR for residential uses, bonusable to 12 through the provision of affordable housing in accordance with the existing regulations for R10 sites. This 2 FAR bonus could be generated by affordable housing—provided on-site, off-site, or through the preservation of existing affordable housing—in an

amount equal to, at most, 5 percent of the floor area on the zoning lot, depending on the manner in which the affordable housing is provided.

The existing C1-9 zoning prohibits tower buildings when located within 125 feet of First Avenue, and instead requires a tower-on-a-base building form if the building is not set back that far. A typical building of this form will have a streetwall of between 60 feet and 85 feet in height and a tower above. Based on the shadows analysis (see Chapter 6, “Shadows”), to fully avoid the significant adverse impact on the Tudor City open spaces, the height of the building on the 685 First Avenue parcel would have to be substantially reduced to a height of approximately 320 feet and, concurrently, the height of the building on the 708 First Avenue parcel would have to be substantially reduced to a height of approximately 360 feet. The existing C1-9 zoning would permit a building in excess of 320 feet on the 685 First Avenue site.

The requested height and setback waiver would permit a tower on 685 First Avenue to be located closer to 39th Street than would otherwise be permitted. The tower would be located as far from Tudor City as possible on the site, to increase physical separation between the buildings. This placement along the street line of 39th Street would also serve to reinforce the streetwall and the visual corridor, which will help to delineate this pathway toward the East River. Moreover, the use of the General Large Scale Development special permit would enable CPC to regulate, through the approved drawings, the shape of the building on the site.

While the present application calls for the site to be remapped as a C5-2 district, the tower form proposed for 685 First Avenue, in fact, recalls the tower form allowed by the earlier version of C1-9 zoning that permitted towers on wide streets, and produced many of the residential towers that line both sides of First Avenue from 33rd Street to 39th Street today.

The proposed C5-2 zoning would permit a tower located within 125 feet of First Avenue, and would not mandate the tower-on-a-base form, consistent with the project’s overall design intent of slender towers with minimal footprints. This would allow the site design to enliven the First Avenue street frontage with retail, rather than the proposed building being set far back from the street.

**Comment 1-28:**

The MAS is gratified at ERRC’s efforts to develop a site plan that would be fully compatible with the creation of a deck over the FDR. Specifically, the MAS was encouraged by the proposed elevation of the proposed site plan and the apparent willingness of ERRC to provide an

easement that would allow the highway to be aligned to permit decking over. (MAS)

**Response 1-28:** Comment noted. See the response to Comment 1-21.

**Comment 1-29:** The MAS believes that the phasing of the project should ensure that its public benefits—such as the provision of open space, a school and affordable housing—should come as early as possible in the construction of the project. (MAS)

**Response 1-29:** Comment noted. The SEIS identifies the phasing of project elements and the likely timing of potential significant adverse impacts. The phasing of open space and the timing of the school’s construction will be addressed in the restrictive declaration. With respect to affordable housing, please see the response to Comment 1-19.

**Comment 1-30:** The proposal to rezone these manufacturing districts to high-density mixed use zoning is a sound one. With the Con Edison plant that occupied these properties now decommissioned and demolished, the sites should absolutely be redeveloped, and the neighborhood context is appropriate for development at a high density. The application represents an important opportunity to promote economic activity and job growth while making a major contribution to the East Midtown community and the City’s skyline. The Applicant should be commended for committing to improve and redevelop the area, and for endeavoring to create a development and open space of high quality and distinction. (Stringer)

**Response 1-30:** Comment noted. Chapter 2, “Land Use, Zoning, and Public Policy,” analyzes the proposed rezoning, and Chapter 5, “Open Space,” analyzes the proposed development programs effects on open space resources. Both analyses find that the Proposed Actions would not result in significant adverse impacts.

**Comment 1-31:** The Applicant’s recent modifications to its proposal show a commendable commitment to community priorities and City policy goals. Including the upzoned residential properties within an “inclusionary housing designated area” has the potential to create significant affordable housing opportunities for the many working and middle-class New Yorkers who are being rapidly priced out, and pushed out, of Manhattan. (Stringer)

**Response 1-31:** Comment noted. Please see the response to Comment 1-19.

**Comment 1-32:** One of the primary public benefits of the project is its capacity to create a large number of high-quality construction and permanent job opportunities. As noted in public testimony at the Borough President’s hearing, it is important that the Applicant make commitments that will ensure that all of these job opportunities provide living wages and good benefits to the many working and middle-class New Yorkers who depend on responsible development policies for their lives and livelihoods. Without such commitments, one of the strongest public rationales for the project will be considerably weakened. Assuming such commitments are made, however, the project has the capacity to promote important job growth as well as new revenue for the State and City. (Stringer)

**Response 1-32:** Comment noted. Issues related to the wages and benefits of project employees are outside the scope of a CEQR analysis.

**CHAPTER 2: LAND USE, ZONING, AND PUBLIC POLICY**

**Comment 2-1:** The proposed office building at First Avenue between 39th and 40th Streets is an inappropriate use for this residential neighborhood.(CB6 Bulk Memo, Parker, Garodnick, CB6-Frank-Oral, Krueger, CB6-West, CB6-Frank and Rubin)

The far East Side of Manhattan from 14th Street up into East Harlem is made up of thriving residential neighborhoods—along First and York Avenues the United Nations and a number of hospitals are the only substantial exceptions to this residential pattern. (Krueger, CB6 Frank oral)

The uses on the site should be limited to residential and retail. The United Nations office buildings north of 42nd Street do not justify ERRC’s office tower on 41st Street because 42nd Street is a significant dividing point for the neighborhood; the UN uses are an anomaly amid the otherwise residential and institutional uses all along First and Second Avenues. (Garodnick)

The UN is a unique institution. It is not simply there to set a precedent for commercial development. It is an icon. It’s not just there because it was designed commercially. It was zoned commercially but that doesn’t mean that the next building should be commercial. That’s not what the UN is about. We need to respect our institutions. (CB6-Imbimbo)

There are no commercial corporate offices on First Avenue. The offices associated with the UN on First Avenue have a not-for-profit status. The UN buildings 1 and 2 house offices for the UN member nations that

cannot afford New York's high-end office rents. Many of these offices are subsidized by the UN itself. (CB6-Curtis-Oral)

The hospital buildings, which have offices, are deemed community facilities, by extension; all the missions to the United Nations, and about one-third of them are in Turtle Bay, are considered to be community facilities. By a larger extension, the United Nations itself is a community facility. Its community is the entire world, not New York. It is by no means or circumstances the speculative office building, which at this moment has no prime tenant. We don't think that that building belongs there. It should be moved back to Second Avenue if necessary. (TBA)

Unlike the predominantly residential C1-9 zoning that characterizes much of the surrounding area, the proposed zoning districts permit a maximum commercial floor area of 12 and thereby enable a large commercial office building. Further, with the closest subway located three avenues away, the ability to attract major commercial tenants with a public transit-based workforce is hindered. Office space at this location also may not be in keeping with the City's policy goals for developing and growing the Manhattan Central Business District, which have emphasized the need to attract new office users to new transit-orient development in Hudson Yards and the West 30s. The City and community have long accepted the United Nations in the area as an institution of global significance, but there is a significant difference between providing an exception for one particular user, on the one hand, and changing the zoning of the area to open the door to many more new office uses in the future, on the other. (Stringer)

The mixture of uses programmed for the site should be adjusted to better reflect the residential context of the area. (Stringer)

**Response 2-1:**

Chapter 2, "Land Use, Zoning and Public Policy" of the SEIS concludes that the location of an office building on the 708 First Avenue parcel would be consistent with existing land use, zoning, and public policy. The office use would maintain consistency with the area's mixed-use pattern that is more oriented towards commercial office in its northern portion.

The site at the corner of 41st Street and First Avenue has been proposed for office use due to its proximity to the 42nd Street commercial and mixed-use corridor. This proximity to the 42nd Street corridor brings with it easy connections to a number of transit options, including Grand Central Terminal and all of its subway lines, the #7 train, cross-town buses, and the potential ferry or water taxi stop at the foot of 42nd Street.

As indicated in Figure 2-4 of Chapter 2, “Land Use, Zoning, and Public Policy,” commercial office uses along the 42nd Street corridor today extend to the east side of Second Avenue. On the east side of First Avenue are the United Nations—an institution that comprises primarily commercial office uses—and the Robert Moses Playground, which is the possible site of a future United Nations office building. On First Avenue alone there are today nine commercial buildings located between East 34th Street and East 46th Street, not including the United Nations campus on the east side of the avenue. In addition, the Con Ed building previously located on this site was a 10-story office building encompassing nearly the entire block, not an industrial building; therefore, the proposed development is not out of character with either the existing or the historic context of this neighborhood.

**Comment 2-2:**

The Final SEIS prepared by ERRC fails to address the CPC actions, which intended to preserve the residential character of the neighborhoods east of Second Avenue. In addition it fails to address the westward expansion of the central business district established by the CPC in policy actions as the Hudson Yards/West Side rezoning. ERRC, in a follow up study for the Final SEIS, should address these important land use and zoning policy issues. (BFJ-2)

Appropriate zoning should avoid an eastern extension of the Central Business District. (CB6-Peveri)

The East River Realty plan remains procedurally deficient in that it proposes to rezone to C5-2 and C4-6 districts, which allow office buildings and bonused plazas, instead of C1-9, as was done to allow residential development on other sites along First Avenue between 34th and 40th Streets. (CB6 OS Memo, CB6-1)

Observing that the current zoning districts in the area between 34th and 42nd Streets are generally C1-9, R10, and R8 and not C4-6 and C5-2 (residential and not commercial or mixed-use), C1-9 or C1-8 might be a more appropriate new district. (CB6 Zoning Memo)

The C5-2 district between 41st and 49th Streets is not used as a high-density commercial district and its existence is not a logical argument for extending it south onto the Con Ed properties. (CB6 Zoning Memo)

The Zoning Resolution says that C5 districts “are designed to provide for office buildings and the great variety of large retail stores and related activities which occupy the prime retail frontage in the central business district, and which serve the entire metropolitan region.” C4 districts “comprise the City’s major and secondary shopping centers, which provide for occasional family shopping needs and for essential services

to business establishments over a wide area, and which have a substantial number of large stores generating considerable traffic.” Neither of the descriptions above comes close to matching the primarily residential area in which the Con Ed properties are located. On the other hand, C1-9 districts are a combination of C1 and R10. Their combined description is much more in keeping with the neighborhood in which the Con Ed properties are located. (CB6 Zoning Memo)

C5 zoning is inappropriate for the project area. (BFJ-2)

The ERRC proposal departs from a decades long series of rezonings designed to encourage the Midtown central business district to grow toward the west, where there is more transit capacity and relative underdevelopment compared with the east side. (CB6-1)

There is no reason to believe that the extension of zoning appropriate to a central business district—such as the C4 and C5 districts proposed by the Applicant—as far east as the development parcels is consistent with the city’s zoning and planning policies. In fact, as is evident in the recent Hudson Yards rezoning, the city’s policy is to expand the Midtown Central Business District in the direction of the far West Side. In contrast, it is rational to keep the far East Side as a residential area. (Krueger)

The neighborhood surrounding the sites to be rezoned, along First Avenue from 34th to 42nd Streets, is a residential district zoned almost exclusively R8 and C1-9. The area was formerly a manufacturing district, but as each lot along First Avenue became the subject of a rezoning proposal, the Department of City Planning determined C1-9 was the appropriate designation. 685 First Avenue is already designated C1-9. That zoning designation is the logical one for this area, as it permits high-density residential development and some retail use, consistent with the contextual surroundings. (Krueger)

**Response 2-2:**

As described in Chapter 2, “Land Use, Zoning and Public Policy” of the SEIS, the proposed zoning map changes would be compatible with the existing zoning districts in the study area. A C5-2 district is currently mapped to the immediate north of the 708 First Avenue parcel and the proposed designation would extend that district and permit uses and densities that are consistent with the existing pattern of development in the surrounding neighborhoods. While there are currently no C4-6 districts in the land use study areas, this district would be compatible with existing zoning districts, as the high-rise residential and ground-floor retail development this district would foster would be consistent with the development permitted by the adjacent C1-9 district. In addition, the C4-6 district would allow the development on the 616 First

Avenue parcel to have a site plan that utilizes towers and maximizes the amount of publicly accessible open space on the site.

There are no City policies limiting commercial development to west Midtown. The proposed development program, which includes an office building on the 708 First Avenue parcel, would continue existing trends of high-density development in the immediate vicinity and be consistent with public policy for the area.

See also the response to Comment 2-1.

**Comment 2-3:**

It does not make sense to introduce more than 1.5 million square feet of office space into a residential community already struggling with major traffic congestion and inadequate public. (Krueger)

The developer wants to introduce 1.1 million square feet of unwanted office space into a residential neighborhood that already suffers major traffic congestion and other quality of life issues. (CB6-1)

ERRC mitigations rely, in part, on expansion of east-west buses and lists a substantial number of steps affecting traffic flow, lane adjustments, widening pedestrian cross-walks at a number of intersections, widening of an east end stairway, PL9, serving the 7 line, focused and systematic parking and traffic management and enforcement, and tweaking area traffic lights. This is, in part, to accommodate the introduction of a zoning designation, which is out-of-sync with the neighborhood's prevailing C1-9 zoning with the United Nations, and its proposed new building, and the hospitals of bed pan alley, excepted. (CB6 Transp Cmte)

It's important to have office space here in Manhattan. The question is where. It's perfectly clear to anyone who lives here that the wrong place for office space is First Avenue. The subways are far away. People will end up coming to First Avenue by car. They'll take the tunnel, the bridge, and the East Side Drive. Traffic on First Avenue is a nightmare. (Phaler)

It is highly questionable whether the public interest would be well served by zoning changes that would allow for the tremendous amount of office space proposed. Arguably adding new office space—isolated from public transportation as it is—simply flies in the face of our new emphasis on sustainability and our efforts to address the cumulative impact of planning decisions that have brought more and more commuters to Manhattan from outside the borough without adequate provision for public mass transit. New housing on these sites has the potential to reduce rather than increase the need for people to commute into the borough. New office space undoubtedly would have the

opposite effect. Unless the developer is prepared to present feasible options for all these people to get to First Avenue every morning in rush hour in a way that does not seriously set back our efforts to get traffic congestion under control, the proposed office space—and the related parking space—should be rejected. (Kavanagh)

From the standpoint of transportation policy, reasoned development on the First Avenue corridor would argue for zoning geared to housing and against zoning that would encourage or support commercial office space. Sound public policy, and common sense, should dictate a zoning proposal that would reduce car traffic, not one introducing 1,554 new parking spaces. At a time when public policy, environment concerns, community priorities, and the Administration are all oriented toward minimizing car traffic in the city generally, ERRC has introduced a zoning proposal geared to maximum parking. And parking is a key determinate of the choice for travel mode. (CB6 Transportation Committee)

**Response 2-3:**

The SEIS analyzes the potential for significant adverse impacts resulting from the proposed mixed-use program for all environmental areas of concern raised by the commentators, including traffic, transit and pedestrians, neighborhood character, and public health. The SEIS also considers alternatives with residential buildings on the 708 First Avenue parcel (i.e., the CB6 Alternative and the All-Residential Alternative). In terms of traffic impacts, the All-Residential Alternative and the CB6 Alternative also would result in significant adverse impacts, some of which would be unmitigatable. As identified in Chapter 24, “Alternatives” of the Final SEIS, the proposed development program would result in 17 unmitigated adverse traffic impacts in Manhattan in the AM peak hour compared to 15 unmitigated adverse impacts under the All-Residential Alternative and 13 unmitigated adverse impacts under the CB6 Alternative. The weekday midday and Saturday peak hours would result in a difference of no more than two unmitigated adverse impacts when comparing the proposed program, the All-Residential Alternative, and the CB6 Alternative. The PM peak hour would result in 14 unmitigated adverse impacts under the proposed program and All-Residential Alternative and 9 unmitigated adverse impacts under the CB6 Alternative.

With respect to the number of parking spaces provided in the proposed development program, see the response to Comment 15-6.

**Comment 2-4:**

There’s no real need for the additional office building, and the UN preferences, which are outside the Secretariat building, can easily fit into the proposed consolidation building. (MLC)

The only part of the United Nations that is growing in space needs is the Peacekeeping Forces, and they're not in New York City. And so the projection for about 20 years out is that there's no, or relatively no, increase in United Nations uses. (CB6-Rubin)

**Response 2-4:** Comment noted.

**Comment 2-5:** Office buildings generally deaden street-life activity on nights, holidays, and weekends. (CB6-Peveri, CB6-Imbimbo, CB6-Rubin) Residential streets are lively, unlike commercial areas. We do not need a huge office building that will sit dark, silent and threatening during non-work hours. (CB6-Buchwald)

The MAS believes that the inclusion of commercial office space in the program for the site will help to create a more active, mixed-use place. However, the stand-alone office building proposed by ERRC risks having a deadening effect, because of its limited retail, single-use, and scale. The proposed building is approximately the size of 9 West 57th Street, but is located in a sensitive site where its substantial footprint risks overwhelming the nearby UN Secretariat building and surrounding buildings. The Commission should explore ways of mitigating these impacts, such as by requiring more active uses like retail at the buildings base, reducing the footprint of the building or requiring a mixed-use program. (MAS)

**Response 2-5:** As noted in Chapter 15, "Traffic and Parking," the proposed office building is expected to generate an excess of 3,000 hourly employee and visitor trips during the AM, midday, and PM peak hour periods. The proposed office building would also include 71,167 square feet of retail, which will likely serve not only the needs of the building's workers and visitors, but also the surrounding community. An office building would help bring vitality to the surrounding streets during the daytime and into the evening hours, as office uses complement residential uses in creating street life and activity around the clock and in generating demand for local retail and food service establishments. Part of having a 24-hour-a-day neighborhood is providing different types of users and generators of activity throughout the day. Office workers will frequent the plaza during the day, assuring that it will be an active, well utilized space; indeed, offices today are rarely occupied only between 9 AM and 5 PM. The proposed office building would be well connected to the surrounding streets and to the adjacent open space, with entrances provided on all four sides of the building. The main pedestrian lobby would be entered from First Avenue and from a pedestrian entrance on the south façade of the building, which would provide direct access to and from the adjacent public open space. The

office building façade facing the plaza would be entirely transparent and the lobby of the building would be continually lit, enabling a visual connection, in addition to the physical connection, between the inside and outside of the building at all hours. An additional entrance would be provided on the eastern façade for access to the plaza and the public promenade, and a lower level lobby would be located on 41st Street.

**Comment 2-6:** We strongly support including an office building on the 708 First Avenue property, and we'd like to note the overall office situation. Back in 2001 the group of 35 convened by Senator Schumer released a report assessing demand for office space and supply of office space over the long term, and the report emphasized the need to develop more office space to accommodate and to ensure that there were already adequately sized commercially zoned sites ready to accommodate that development in strategic locations all throughout the city, including the boroughs outside Manhattan. More Class A space is needed, and capturing our share of regional job growth remains a high priority for the city, and this project, as proposed, advances that goal. (REB)

The Group of 35 emphasized districts outside Manhattan, but it also provided recommendations for expanding office development in Midtown and in Downtown. We should take advantage of this opportunity to discourage these smaller submarkets of the CBD, such as the UN area. It's not likely that any future UN use would want to go to Hudson Yards or somewhere. They would much prefer to be there. The previous speakers didn't make a case for what difference it would make if it were a UN office, or an NYU office, or another type of office. We all need to allow a little bit of office space. (REB)

**Response 2-6:** Comment noted. Chapter 2, "Land Use, Zoning and Public Policy" finds that the location of an office building on the 708 First Avenue parcel would be consistent with existing land use, zoning, and public policy. The office use would maintain consistency with the area's mixed-use pattern that is more oriented towards commercial office in its northern portion.

**Comment 2-7:** CB6 disagrees with the following omissions in Chapter 2, "Land Use, Zoning, and Public Policy," and recommends that the Draft SEIS be modified to disclose the following information:

- Any analysis of the consistency of the project with the City's policies in PlaNYC; and
- Any discussion of the public trust doctrine as it concerns the alienation of public lands formerly underwater and the remapping of 39th and 40th Streets. (CB6-1)

**Response 2-7:** PlaNYC, an initiative of the Mayor’s Office, is not an officially adopted City policy at this time, and is thus not considered in CEQR review. Nonetheless, the Proposed Actions are consistent with many of the goals of PlaNYC and advances many of that plan’s objectives. Specifically, the Proposed Actions would: develop housing on underutilized, formerly industrial sites; create high-density residential development near existing transportation infrastructure; expand inclusionary zoning and create affordable housing units; create new publicly-accessible open space; remediate and redevelop a brownfield site; expand the green, permeable surface area on the development parcels, thus reducing stormwater runoff; utilize stormwater detention to reduce combined sewer overflow (CSO) events; promote cycling by providing bicycle parking; improve air quality by increasing the number of trees on the development parcels; and combat climate change by pursuing LEED certification for all buildings.

The Proposed Actions do not involve the alienation of public lands, and the public trust doctrine has no application to the Proposed Actions.

**Comment 2-8:** The other buildings in the immediate neighborhood of 616 First Avenue conform more closely to the residential requirements that the 616 First Avenue development should meet. The Rivergate is on a site of approximately 71,500 square feet. It has 708 units that work out to 101 square feet of lot size per apartment. Manhattan Place is on a lot of approximately 45,600 square feet. It has 485 apartments, which works out to 95 square feet of lot size per apartment. The proposed development sits on a lot of 68,770 square feet. The submitted plans are for 833 apartments, which works out to 82.5 square feet of lot size per apartment. This density is significantly higher than that of Rivergate and Manhattan Place. In fact, the average of the combined density of the Rivergate and Manhattan Place apartments is 98 square feet of lot size per apartment. This means that the residential density of the proposed development will be 19.5 percent greater than the surrounding buildings (82.5 square feet versus 98 square feet). There is no logical reason for this. The density of the development should be reduced. The density of the construction on the 616 site is more onerous since the developer plans to construct 2,000 sf of retail space, 137,000 sf of below-grade space, and 294,000 sf of garage space. The adjoining residential buildings do not have comparable retail, garage, and below-grade space. Therefore, a residential building should be eliminated on the 616 site, and the retail, below grade, and garages spaces should be reduced. (Wyckoff)

**Response 2-8:** The ratio of lot size per apartment unit is not a measure of density used in CEQR analyses. As used in the SEIS and following CEQR

methodologies, the appropriate measures of comparison between the proposed residential buildings and existing residential buildings are gross square footage and FAR. The residential population projected to be generated by the proposed residential program is also used in the analyses of certain environmental areas like community facilities, open space, and traffic. As described in Chapter 8, “Urban Design and Visual Resources,” the proposed residential buildings, which range from 426,431 gsf above grade to 973,728 gsf above grade, would be similar in bulk to the Corinthian and the Rivergate apartment buildings that are 880,200 gsf and 835,200 gsf, respectively. In terms of FAR, the proposed C4-6 and C5-2 zoning districts would permit maximum residential development up to 12.0 FAR with an inclusionary housing bonus. As described in Chapter 2, “Land Use, Zoning, and Public Policy,” allowable residential development under the proposed zoning would, therefore, be the same as allowed under the existing, adjacent C1-9 and R10 zoning districts, which permit maximum residential development up to 12.0 FAR with an inclusionary housing bonus.

**Comment 2-9:** CB6 supports retail, and retail is what brings the hustle and bustle of the city. Right now there are residential buildings, but this site would be a good sort of anchorage in terms of retail. There’s very little retail on that corridor, so CB6’s position is a mixture of residential and retail. (CB6-Frank-Oral)

**Response 2-9:** Comment noted. The Proposed Actions would include retail uses on each of the development parcels. Chapter 2, “Land Use, Zoning, and Public Policy,” finds that the proposed retail uses would be compatible with other uses in the area.

### **CHAPTER 3: SOCIOECONOMIC CONDITIONS**

**Comment 3-1:** The problem with development in Manhattan is that the middle class family will be driven out by escalating rents and prices. (Conlon)

There must be on-site permanent affordable housing that takes into account the income levels of the people that are simply being priced out of the area. For example, Stuyvesant Town continues to go market rate where people, including those with young families, are simply being priced out of the city and out of Manhattan. (CB6-Frank-Oral)

**Response 3-1:** Chapter 3, “Socioeconomic Conditions,” of the SEIS analyzed the potential for significant adverse impacts due to increasing rents, and concluded that the Proposed Actions would not result in such impacts. With respect to the provision of affordable housing as part of the

proposed development program, please see the response to Comment 1-19.

**CHAPTER 4: COMMUNITY FACILITIES**

*GENERAL*

**Comment 4-1:** The developer’s proposal will bring thousands of new residents into our neighborhood yet does not include the community facilities they will need. There should be space for schools, day care, and activities for seniors. (CB6-1)

The ideal location for a Lifelong Learning Center is the former Con Edison site, located between East 35th and East 41st Streets between First Avenue and the FDR Service Road. Many retirement communities are adding these facilities as a way of getting older adults to move in. At present there are over 60,000 people over the age of 60 living in our community. This group is underserved with the present community offerings. (Frank)

**Response 4-1:** As described in Chapter 1, “Project Description” of the Final SEIS, the Applicant and the School Construction Authority (SCA) will enter into an agreement to provide an approximately 630-seat, K-8 public school to be located on the 616 First Avenue parcel, which is planned to be operational by September 2012. The school would have capacity in excess of the demand generated by the proposed development program, and therefore would absorb some of the excess demand generated by other residential developments in the area. Chapter 23, “Mitigation,” of this Final SEIS contains a full analysis of the potential environmental effects of mitigating the project’s school impact by including the above-described school as part of the development.

As described in Chapter 23, “Mitigation,” the Applicant will work with the Administration for Children’s Services (ACS) to implement measures to provide any needed additional capacity in day care facilities within 1 mile of the development parcels as reasonably determined by ACS. These provisions will be included in the restrictive declaration.

At this time, a senior center or Lifelong Learning Center are not contemplated for the proposed development program. The *CEQR Technical Manual* does not require the analysis of a project’s effects on the services and amenities available to senior citizens in particular.

**Comment 4-2:** How many children will be moving into the area because of the proposed development? A 650-student school has been added to the

plans, so the number of children will rise significantly. Where will they get to play baseball and soccer? (Conlon, Hen)

We need to ensure in our area that there is active play space such as a baseball diamond or a soccer field, which will add to the limited space that we currently have. By way of example, the Peter Stuyvesant Little League is already over its capacity, and today primarily uses a private field that belongs to Con Edison at 16th Street and Avenue C. The ERRC properties will be in the catchment area of that very little league and will create more of a need for active playing areas. (Garodnick)

**Response 4-2:**

As noted in Chapter 4, “Community Facilities” of the SEIS, the Proposed Actions are expected to generate approximately 525 public school-age children (elementary and intermediate schools). As detailed in Chapter 5, “Open Space,” the Proposed Actions would provide much-needed open space that would offset the demand from new residents, and add to the inventory of publicly accessible open space, improving opportunities for both active and passive recreation as defined by *CEQR Technical Manual* methodologies. As noted in Chapter 5, “Open Space,” the Proposed Actions would add 4.84 acres of publicly accessible open space to the area. Of this, 3.95 acres would be passive open space and 0.88 acres would be active open space. In addition, as described in Chapter 23, “Mitigation” of the Final SEIS, the 630-seat, K-8 public school proposed as mitigation for the Proposed Actions’ school impact would include a playground/yard area.

*POLICE PROTECTION*

**Comment 4-3:**

Chapter 5, Page 4 of the Draft SEIS notes that as of May 2007, the 17th Precinct had a total force of 182; this is a decrease of 18 individuals from the 2002-year total force of 200. The proposed development would add about 6,500 residents to a neighborhood population that will also be increased by residents in other developments. This increase will add a significant workload to NYPD. The Draft SEIS fails to address this significant impact on the NYPD. (CB6 Safety Cmte)

**Response 4-3:**

According to the *CEQR Technical Manual* and as described in Chapter 4, “Community Facilities,” of the SEIS, a detailed assessment of NYPD service delivery is usually only conducted if a proposed action would affect the physical operations of, or access to and from, the precinct house. The Proposed Actions would not have such effects. In addition, the ability of the police to provide public safety for a new project usually does not warrant a detailed assessment under CEQR. The NYPD independently reviews its staffing levels against a precinct’s population, area coverage, crime levels, and other local factors when

assessing its ability to serve the community or need to redeploy services.

**Comment 4-4:** The Draft SEIS states that the 17th Precinct’s response time to critical incidents is 3.8 minutes, 30 seconds, which is less than the citywide average. However, that response time does not take into account the likely increase in traffic that will be associated with the proposed development. (CB6 Safety Cmte)

**Response 4-4:** With respect to response times, the analysis in Chapter 4, “Community Facilities,” explains that NYPD vehicles can maneuver around and through congested areas because they are not bound by standard traffic controls. NYPD response times have fluctuated annually by as much as 21 percent since 2002, but decreased as a whole by 73 seconds between 2002 and 2007. NYPD response times have decreased citywide from 2005 to 2007. In addition, in 2007, the 17th Precinct had the second-lowest average response time to critical incidents out of all Manhattan precincts. Therefore, incremental traffic volumes projected to occur with the Proposed Actions are not expected to significantly affect police response times.

**Comment 4-5:** Quality of life complaints in the 17th precinct are extremely high. The Commanding Officer of the 17th Precinct does not have sufficient personnel to satisfy the community’s desire for taking care of commercial bicycle riding in violation of New York City laws that is our main safety concern. This problem arose as the precinct lost personnel while, at the same time, officers are reassigned on a daily basis to other areas of the city with more pressing needs. The community is extremely dissatisfied with the level of police in the 17th precinct. The 17th Precinct is down 20 police officers in the last two years. As the NYPD is severely understaffed in the 17th precinct and cannot address the concerns of the area’s existing population, the applications for the proposed development should be denied. There is no mitigation, as the future will result in fewer police as the class in the Police Academy is half full. (Gleicher)

**Response 4-5:** As described in Chapter 4, “Community Facilities,” the proposed development program may necessitate the assignment of additional NYPD personnel, resources, and equipment to the study area. Typically, a commitment of resources would be based on demonstrated need. Overall, the role of the Police Department in providing effective, efficient service is not expected to be significantly affected by the development resulting from the Proposed Actions.

*FIRE PROTECTION AND EMERGENCY SERVICES*

**Comment 4-6:** The residential tower designated WS1-2 is less than 20 feet from the edge of the east wall adjacent to the FDR Drive service road. This distance gives rise to serious public safety concerns, as 20 feet is not enough to accommodate fire equipment such as a ladder truck in the event of a fire. According to the FDNY manual, firefighters need at least 35 feet from the ladder truck side facing a building in order to rescue people up to 10 stories, using a 100 foot aerial ladder, and at least 75 feet to rescue people from floors higher than 10 stories, using a longer aerial apparatus. The space must also accommodate the width of the truck, about 8 feet, and outriggers, another 5 to 8 feet. Therefore, in order to allow the fire department to rescue people in the event of an emergency, there must be at least 51 to 86 feet between the east wall and the proposed new building. (CB6 Safety Cmte)

The Draft SEIS does not discuss any plan for responding to critical incidents on the upper floors of the proposed buildings. (CB6 Safety Committee)

**Response 4-6:** The proposed development program and site plan have been designed in conformity with all applicable New York City building, fire, and safety codes. Issues regarding conformity with such codes are beyond the scope of CEQR. The CEQR analysis of the Proposed Actions' effects on fire protection services, contained in Chapter 4, "Community Facilities," finds that the Proposed Actions would not result in any significant adverse impacts with respect to fire protection services. In addition, in a letter dated June 20, 2007, FDNY did not identify any specific problems associated with the proposed development program.

**Comment 4-7:** Page 4 of Chapter 3 of the Draft SEIS states that the *citywide* FDNY response time was 4 minutes and 37 seconds during the second half of the fiscal year. However, no study was conducted of the average FDNY response time in the study area, a far more relevant data point. (CB6 Safety Cmte)

**Response 4-7:** The City does not publicly report response times at the Community District level, nor are data publicly available to report response times for a project study area. Response times for the borough of Manhattan have been added to the analysis in Chapter 4, "Community Facilities," of this Final SEIS. As described in that chapter, the average FDNY response time to structural fires in Manhattan decreased from 2005 to 2007 by 1 second to 4 minutes 33 seconds (compared with 4 minutes 29 seconds for the City as a whole). The 2007 Manhattan average response time was 1 second shorter than in 2005 (4 minutes 34 seconds) and 4 seconds

## **First Avenue Properties Rezoning Final SEIS**

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shorter than in 2006 (4 minutes 37 seconds). In addition, response times have decreased citywide, and are expected to decrease further, despite new development and increasing congestion in many areas of the city.

**Comment 4-8:** The Draft SEIS notes that the FDNY ambulance units have a *citywide* response time to life-threatening medical emergencies of 6 minutes and 42 seconds. Here again no study was conducted for the average FDNY ambulance unit response time in the study area. (CB6 Safety Cmte)

**Response 4-8:** The City does not publicly report response times at the Community District level, nor is data publicly available to report response times for a project study area. Response times have been updated in Chapter 4, “Community Facilities,” of this Final SEIS to reflect the most recent data available (the average citywide response time for life-threatening medical emergencies by ambulance unit in Fiscal Year 2007 was 6 minutes 36 seconds, which is 6 seconds less than the average time in Fiscal Year 2006).

**Comment 4-9:** Downstream of the ERRC commercial/office proposal is the New York University Medical Center (34th to 30th Streets) and the Bellevue Hospital Medical Center (30th Street to 26th Street, including the newly emerging East River Science Park). What will be the impact on ambulance, emergency vehicles, and general hospital traffic with the additional ERRC garage bound traffic? And much the same can be said for the impact of the closure of the southbound entrance and exit from the FDR Drive at 14th and 15th Streets. (CB6 Transp Cmte)

First Avenue, Bellevue; and NYU ambulances, emergency vehicles, and general hospital traffic are likely to be impacted by added ERRC garage bound traffic. (CB6-Sepersky)

**Response 4-9:** The potential for significant traffic impacts along First Avenue south of the development parcels (to East 30th Street) is analyzed and disclosed in Chapter 15, “Traffic and Parking” of the SEIS. That analysis identified congested traffic conditions during peak hours along First Avenue in the existing and future No Build conditions, and projected that congested conditions would worsen with the Proposed Actions. However, emergency service vehicles can maneuver around and through congested areas because they are not bound by standard traffic controls, as described in Chapter 4, “Community Facilities.” Furthermore, response times have decreased, and with improvements in technology and dispatching techniques, are expected to decrease further, despite the increasingly congested traffic conditions in many areas of the city. The FDNY expects further reduction in ambulance response times with the use of an automatic vehicle location system, which

provides real-time updates on unit locations and allows for more efficient dispatching. Regarding the closure of the southbound entrance and exit from the FDR Drive at 14th and 15th Streets, see the response to Comment 2.

**Comment 4-10:** There are no studies about how the FDNY can fight fires in such tall buildings, and no discussion of how the FDNY could respond to life-threatening emergencies on the upper floors of the proposed buildings. In order to develop such plans, the FDNY would have to examine all of the architectural drawings of the proposed buildings. (CB6 Safety Cmte)

**Response 4-10:** As stated in Chapter 4, “Community Facilities,” all development would be constructed in accordance with applicable fire and safety codes. The FDNY was provided a description of the proposed development program that included building heights, and in a letter dated June 20, 2007, FDNY did not identify any specific problems associated with the proposed development program. In addition, issues regarding conformity with New York City building, fire, and safety codes are beyond the scope of CEQR.

**Comment 4-11:** The Draft SEIS makes no mention of the building standards recently adopted by the New York City Building Code to facilitate quick evacuation of people from tall towers. (CB6 Safety Cmte)

**Response 4-11:** As stated in Chapter 4, Community Facilities,” all development would be constructed in accordance with applicable fire and safety codes. Issues regarding conformity with such codes are beyond the scope of CEQR.

*PUBLIC SCHOOLS*

**Comment 4-12:** The excessive density of the proposed development would overwhelm the neighborhood’s highly respected but already overstretched elementary and middle schools. PS 116 was already operating at 103 percent capacity in the 2005-06 school year with 741 students. According to the PS 116 administration, there are over 800 students enrolled this school year. This rapid rise in enrollment has forced the school to increase its average Kindergarten-Third Grade class size to 28, which is substantially higher than that recommended for young students. The other elementary schools in the study area were at 97 percent capacity in the 2005-06 school year. The community’s middle schools, IS 104 and IS 255, were at 93 percent and 100 percent capacity, respectively, in 2005-06, but parallel to the experience of PS

116 are projected to increase their populations dramatically in the coming years. A report prepared for the School Construction Authority in October 2005 stated that Community School District 2 is experiencing the greatest increase in elementary and middle school enrollment in the entire city. Enrollment growth in the section of District 2 zoned for PS 116 is expected to be particularly dramatic. Local community groups have estimated that more than 30 new high rise residential buildings separate from the ERRC project will be constructed within PS 116's zone by 2014. The Draft SEIS estimates that the proposed ERRC project alone would add 417 public elementary school students and 83 middle school students to the neighborhood. If these numbers were accurate, this would put the elementary schools in the study area at 164 percent capacity and the middle schools at 119 percent capacity in 2014. There is no way the area's schools could continue to function, let alone thrive, under such a scenario. (Krueger)

There is concern about the severe impact ERRC's proposal will have on the community's schools. The housing units associated with the ERRC proposal would increase the total number of students enrolled in area elementary schools to 2,695, resulting in a utilization rate of 164 percent of capacity and a deficit of 1,047 seats by 2114, and would increase the total number of students enrolled in area middle schools to 1,862, resulting in a utilization rate of 119 percent of capacity and a deficit of 301 seats. (CB6 Youth Cmte)

CB6 agrees with the determination of Chapter 4, "Community Facilities," that the proposed development would add more than 500 primary and intermediate school students. The project should, therefore, include space for a new school and the City should consider enlarging PS 116. (CB6-1)

The ERRC proposal would have a direct and adverse impact on PS 116 because all 417 additional elementary school children associated with the proposal will be zoned for that elementary school. The zoned elementary school, PS 116, is currently over 103 percent capacity and this condition does not include the impact of other projected development in the area prior to the completion of the proposed ERRC project. (CB6 Youth Cmte)

This school district is the fastest growing school district in the city, projected to have 25 percent growth, which is very significant in elementary and middle school seats. So, building schools where we can, when we can, in any large-scale development, is critically important. (Lappin)

The addition of as many as 6,000 new apartments to the community on the former Con Ed sites would be an impossible burden on the area's

schools. In virtually every single large-scale development project across the City, from Queens West to Hudson Yards, there have been plans to add or expand schools to accommodate the increase in students. (Krueger)

The scarcity of land in Manhattan makes it almost impossible for the Department of Education to build freestanding schools below 96th Street. It is absolutely essential for the City to plan in advance for the neighborhood infrastructure required by current and future residents. (Krueger)

**Response 4-12:**

Chapter 4, “Community Facilities,” identifies a significant adverse impact to elementary schools in Community School District 2’s Planning Zone 4, which includes PS 116. The analysis in Chapter 4 also identifies current and projected utilization in Planning Zone 4, based on figures provided by the New York City Department of Education (DOE). The predicted utilization in the future without the Proposed Actions (2014) includes both DOE projections and the anticipated new student populations from identified future development projects in the study area.

As cited in the response to Comment 4-1, the Applicant and the SCA will enter into an agreement for an approximately 630-seat K-8 public school at 616 First Avenue as part of the approximately 120,000 square feet of community facilities space analyzed in the DEIS. This school is planned to be operational by September 2012. As detailed in Chapter 23, “Mitigation,” the school would fully accommodate the project’s demand and would increase Planning Zone 4’s overall capacity compared with the future without the Proposed Actions.

**Comment 4-13:**

While I am pleased that the Applicant has heard our call to include a public school in its development plans, the new proposed school should be large enough to accommodate more than 650 students. With overcrowding at schools in the area becoming a serious problem and the proposed development projected to bring in over 400 students, we need to ensure that the proposed school has an enrollment large enough to mitigate the severe overcrowding at public schools in the area. (Maloney)

The Applicant’s expressed willingness to devote the community facility space at 616 First Avenue to a local public school will, under most scenarios, more than meet the anticipated demand on public schools created by the project and therefore add new public school capacity to an area that desperately needs it. This commitment alone will not meet the existing shortfall in the area’s school capacity—the City must continue to plan and construct new facilities to meet the educational

needs of this growing residential community—but a new school will be an important step in the right direction. (Stringer)

**Response 4-13:** As described in Chapter 23, “Mitigation,” the new 630-seat, K-8 elementary/intermediate school on the project site would provide capacity in excess of the projected demand generated by either the proposed development program or the Affordable Housing Scenario. The 630 new school seats would fully accommodate the estimated 417 elementary and 83 intermediate school students introduced to Planning Zone 4 by the proposed development program, or the estimated 433 elementary and 92 intermediate school students generated under the Affordable Housing Scenario. The new school would provide additional seating to satisfy a portion of the demand projected to occur in the future without the Proposed Actions. Absent the Proposed Actions, there would be an estimated total shortfall of 734 elementary and intermediate school seats in Planning Zone 4 by 2014; with the Proposed Actions and the new school, there would be an estimated shortfall of 604 elementary and intermediate school seats with the proposed development program, and a 629-seat shortfall with the Affordable Housing Scenario.

**Comment 4-14:** The developer scheduled a 2014 completion date for the community facility building. If that building is to be used as a school, it should be built first so the school would be ready to receive students from newly constructed residential buildings. (CB6 Safety Cmte)

Given the extended time lines for moving forward with the ERRC project and the immediate need for expanded school space, I urge that school construction be first, not last, on any construction schedule. (Krueger)

**Response 4-14:** As described in Chapter 23, “Mitigation,” the new school facility is planned to be operational by September 2012. The timing of the school’s occupancy could be delayed until September 2013 if the design and construction process takes longer than currently anticipated. The timing of the school’s construction will be addressed in the restrictive declaration.

**Comment 4-15:** ERRC informed CB6 that it has held preliminary discussions with the SCA but has made no commitment to build a school or day care facility on the site. (CB6 Youth Cmte)

**Response 4-15:** See the responses to Comments 4-1 and 4-14.

**Comment 4-16:** The school to be associated with the ERRC project should be sited on First Avenue between 35th and 36th Streets in order to protect school children from unsafe and unmitigated traffic conditions along the FDR access road and in order to minimize shadows on St. Vartan Park, one of the few recreational open spaces available to neighborhood children. (CB6 Youth Cmte)

**Response 4-16:** Chapter 16, “Transit and Pedestrians” of the SEIS does not identify the potential for significant adverse pedestrian safety impacts under the Proposed Actions. Nor does it identify any high-accident locations on the block bordering the site of the proposed school. Standard school safety procedures and pedestrian improvements such as high visibility crosswalks and signage would ensure the safety of school children. With respect to shadows, the SEIS does not identify significant adverse shadows impacts on St. Vartan Park. As described in Chapter 6, “Shadows,” while the enjoyment of the passive recreation areas of the park, such as the seating areas, would be reduced in the mornings during all four seasons under the Proposed Actions, the overall usability of the park would not be affected, and the park would continue to receive substantial sunlight in the afternoon and evening hours.

**Comment 4-17:** The local high schools in the area, Norman Thomas and Seward Park, have received “D” failing ratings from the Department of Education. In addition, a majority of the students do not graduate. The large-scale development, and especially the affordable housing component, would add hundreds of high school students to already failing schools that are operated far above capacity. If there were mitigation, the Department of Education would have corrected the situation. (Gleicher)

**Response 4-17:** As described in Chapter 4, “Community Facilities,” the *CEQR Technical Manual* provides guidelines or thresholds (shown in Table 4-1) that are used to make an initial determination of whether a detailed study is necessary to determine potential impacts. Based on student ratios from Table 3C-2 of the *CEQR Technical Manual*, the proposed development program would add an estimated 125 new high school students, and the Affordable Housing Scenario would add an estimated 140 new high school students. These estimates are below the 150-student CEQR threshold, and therefore, no further analysis of the Proposed Actions’s effects on public high schools is required.

**Comment 4-18:** I am pleased that the ERRC application has been changed to include space for a public school. (Duane, Parker)

**Response 4-18:** Comment noted.

*DAY CARE CENTERS*

**Comment 4-19:** CB6 agrees with the determination of Chapter 4, “Community Facilities,” that the proposed development would add more than 100 children requiring public day care. The project should, therefore, include space for a new day care facility. (CB6-1)

The addition of potentially 100 children eligible for public day care would exacerbate the existing shortage of available slots and result in a shortage of 155 child care slots in the study area. (CB6 Youth Cmte)

**Response 4-19:** As described in Chapter 23, “Mitigation,” it is not likely that all of the 100 children under age 12 from low- to moderate-income households that would be introduced to the area by the Affordable Housing Scenario would make use of publicly funded day care facilities within the one-mile study area. Families could make use of private alternatives to publicly funded day care facilities or facilities outside the study area, and ACS continually evaluates day care facility utilization and makes adjustments in capacity due to changes in demand. As set forth in the restrictive declaration for the project, following occupancy of a substantial amount of affordable housing constructed on or off-site in conjunction with the project, the project sponsor will work with ACS to develop measures to provide additional capacity in publicly funded day care facilities within one mile of the development parcels, as reasonably determined necessary by ACS.

**Comment 4-20:** There is concern about the severe impact ERRC’s proposal will have on the community’s day care facilities. (CB6 Youth Cmte)

**Response 4-20:** Comment noted. See the response to Comment 4-19.

**CHAPTER 5: OPEN SPACE**

**Comment 5-1:** We are starved for parks. Our community district has the least amount of open space per capita of any in the city. (CB6-1) With the lowest ratio of public park space per capita of any Manhattan Community District, there is no question that my constituents living and working in CB6 suffer from a serious deficiency of open space. This deficit will only be exacerbated if the proposed developments, which will add thousands of additional residents to the community, move forward as planned without significant mitigation. (Krueger)

**Response 5-1:** As described in Chapter 5, “Open Space,” of the SEIS, the Proposed Actions would not result in significant adverse open space impacts and would not require mitigation. The project’s publicly accessible open

space would substantially improve upon the existing deficit of open space resources in the area, even when accounting for the introduction of the project's residents and office workers to the area. The Proposed Actions would add much needed open space resources to the community and would constitute a significant improvement in the per capita amount of open space as compared with conditions without the Proposed Actions. However, as noted in Chapter 5, "Open Space," most open space ratios would continue to be well below DCP guidelines (see Table 5-27).

**Comment 5-2:**

The open space in the developer's proposal comes with no guarantee of permanent public access. (CB6-1, Ladin-SAC, Krueger) Access to project open spaces should be obvious to the public and difficult to restrict. (CB6 Parks Cmte) There needs to be care taken to ensure that the open space is clearly available and accessible to the public and that it is configured in a way that is usable. (Maloney)

While ERRC has repeatedly stated that the publicly accessible open space will remain available to the public in perpetuity, many residents fear that this space could be improperly made private in the future. Unfortunately, there have been numerous examples throughout my district of public open spaces, which were created through plaza bonuses and thus legally required to remain permanently accessible, that have been illegally closed for years at a time. (Krueger)

The proposed development should include language mandating the perpetual public access of all open spaces especially in future years when the developer has been succeeded by a residential board. (CB6 Parks Cmte)

The open space is currently proposed to be bordered by "driveways" that would extend 39th and 40th Streets. These should be publicly controlled to enhance the public quality of the open space and guarantee public access to any open space created adjacent to the waterfront in the future. (MAS)

The open space is currently proposed to be owned and operated by ERRC, and presumably will one day be controlled by a condominium entity. MAS believes that the open space should not ultimately be controlled by a private entity, which is likely to privatize the feel of the space. Instead, the Commission should explore options to ensure public ownership of the open space, such as mapping the open space as public parkland, or turning over the open space to be managed by a non-profit, independent conservancy. (MAS)

There has been a continuing struggle to keep residential plazas open to the public. Often they are operated to discourage their use by anyone who does not live in the building and sometimes they are closed entirely. The City seems to have little ability to enforce its plaza regulations, especially when the developer has been replaced by a condominium board. (CB6 OS Memo)

The open space plan is one that we support provided that it does not have any restrictions and it never becomes close to feeling private. But the concern about them being closed off at some later point in the future exists. (Garodnick)

The perception is that the open space is not going to be public, and not open. It's the perception of the park that is in the details as with Gramercy Park. It is unclear that the park in the ERRC proposal has that perception of being a truly public park. (CB6-Rubin)

39th and 40th Streets must be returned to the grid of the city. This will provide a city feel for everything. It was suggested that it be closed for part of the evening. That's not public, that's private, and that raises a concern, about the open space. The open space should be truly public open space. (CB6-Frank-Oral)

The City should avoid relying on "publicly accessible private open space" as mitigation for large-scale development projects, because such space often fails to be truly public. (Stringer, Krueger)

Comprehensive public open space guidelines should be developed in direct negotiation with the community that would treat the proposed pathways through the properties as much like public streets as possible, and create more a more activated, pedestrian-friendly open space design. These guidelines should include design modifications to the proposed buildings, programming changes, design changes to the proposed open space, and possibly enhanced monitoring and enforcement of the public's ongoing use of the open spaces over time. (Stringer)

The open space is currently proposed to be closed at midnight. The space should be open 24 hours. (MAS)

**Response 5-2:**

As cited in the response to Comment 1-8, the accessibility of the publicly accessible open spaces would be ensured through the provisions of a restrictive declaration to be recorded against the property. This instrument would be binding on all future property owners, including any condo association.

The proposed open spaces were designed to be, and would remain, open and inviting to the public, with numerous entrances from adjacent

streets and the absence of physical structures such as gates or high walls to impede access or give the appearance of private open space. The hours of operation for the proposed open spaces would be 6 AM to 12 midnight, which is comparable to City park hours (according to NYCDPR, general park hours are sunrise to 1 AM, and playgrounds are generally open 8 AM to dusk). In addition, the six-hour closure period would provide opportunity for some maintenance activities to be performed during off-hours.

**Comment 5-3:** Much of the proposed open space is clearly not in the public realm. The residual space at the bottoms of the sheer towers is perceived as belonging to the towers and not to the streets or open space. The midblock location of the open space on the 616 site makes its public utility particularly problematic. The area around the proposed pavilion is likely to be understood as commercial rather than park. (CB6 OS Memo)

The location of the majority of the open space between several private towers is likely to make the space seem “private” versus “public and welcoming” to the larger community. (Krueger)

**Response 5-3:** See the response to Comment 5-2. ERRC’s intent, through the design of the open space on the Waterside and 708 First Avenue parcels, is to provide a large, integrated open space in which different sections do not appear as discreet areas inaccessible to the public or as commercial areas. These undifferentiated spaces are intended to be welcoming to the public, as there would be no barriers between them or along First Avenue. The location of the open space on the 616 First Avenue parcel allows for ground-floor retail along First Avenue.

**Comment 5-4:** Extending the deck proposed by ERRC over the FDR Drive to create a genuine public waterfront park that would allow pedestrians to descend to the water and any amenities on the water’s edge (such as a water-taxi landing) is a critical, once-in-a-lifetime opportunity that New York must seize. However, the responsibility to create such a park would lie principally with the City and State, and not with ERRC. Without access to the waterfront, the proposed open space may be insufficiently appealing by itself to draw the general public into it. The creation of a waterfront park will act as a powerful magnet that will substantially raise the chances that this open space will be a true public amenity. (MAS)

The redevelopment of these sites along the East River also provides an incredible opportunity to create waterfront access. I hope the developer

will be required to give an easement to allow for waterfront access to be constructed over the FDR Drive. (Maloney)

There should be open space with access to and along the waterfront. (CB6-1)

The proposal doesn't include public open space along the edge of the river or access across the FDR Drive to the waterfront. (CB6 Bulk Cmte)

The ERRRC proposal fails to use the redevelopment of waterfront land to provide waterfront open space, in contrast to the recent rezoning of Greenpoint-Williamsburg and the earlier rezoning of Riverside South. (CB6-1)

I'm particularly concerned about access to the waterfront. I hope that we will seize this opportunity to redefine the way we access the waterfront. By connecting to the outer detour roadway, by connecting to a new heliport park in the East 60s, we could really have a true promenade that could go north of the Triboro Bridge, which would be a wonderful thing for the city. (Lappin)

To provide the waterfront access is very, very important. (CB6-Frank-Oral)

The tastefulness of the Battery Park City developments might be more properly taken as a model of waterfront development, guaranteeing public access to the waterfront, plenty of green space, and density scaled to the size of the site's footprint and the typical building height for the neighborhood. (MLC)

We see the open space as a key benefit. We're hoping that open space can be achieved on the river. We realize that getting to the river will rely, eventually, on DOT schemes. However, we've seen other communities do payments in lieu of open space. You're allowed to do that under New York State law. Many suburban communities do that. That's a key public benefit that we see. We hope that the FEIS can go into that open space and the ways to get to that open space. That's the open space that the board had in mind as the bonus, the FAR 2 bonus. ERRRC did not have that in mind for bonusable open space. We consider open space to be necessary on any site. (BFJ-2)

**Response 5-4:**

The waterfront area between East 34th and 59th Streets is not owned or controlled by the Applicant and is not part of the Proposed Actions and, therefore, provision of open space in this area is not analyzed in the SEIS. The Applicant has proposed a site plan that includes approximately 4.84 acres of publicly accessible open space, an amount that would increase the open space ratio in the study areas compared with the future without the Proposed Actions. The proposed open spaces

would provide new publicly accessible waterfront views, including views of the U.N. Secretariat to the north, and in their design could facilitate a pedestrian connection to future waterfront open space if DOT actions make such a connection feasible. See also the response to Comment 1-21. With respect to the public accessibility of the proposed open space, see the response to Comment 5-2. With respect to the area's building heights, see the response to Comment 8-1.

**Comment 5-5:** CB6 wants open space along the waterfront that provides north-south continuity along the river and can be accessed directly from First Avenue. And waterfront open space would get far more sunlight because it would not sit right at the foot of tall towers. (CB6-1) There is no open space that provides north-south continuity along the waterfront and can be accessed from First Avenue. This contravenes the Mayor's plan for a continuous waterfront greenbelt for pedestrians and bikes around Manhattan Island. (Ladin-SAC, MLC)

**Response 5-5:** As described in Chapter 5, "Open Space," at the eastern edge of the site, the proposed open space would extend the full north-south length of the 700 and 708 First Avenue parcels (illustrated in Figure 8-26 of Chapter 8, "Urban Design and Visual Resources"). This area along the eastern perimeter, which would vary in width from approximately 30 to 52 feet, would be raised to a level of 36 feet, providing views of the East River and United Nations Secretariat building, and allowing for a possible future connection to the waterfront esplanade beyond the adjacent FDR Drive. Providing physical connections to the waterfront or a continuous waterfront esplanade is not within the control of the Applicant. Chapter 24, "Alternatives," compares the open space plans of the CB6 Alternative, which includes open space on the waterfront, with those of the Proposed Actions. As explained in Chapter 2, "Land Use, Zoning, and Public Policy," neither the Proposed Actions nor the proposed development program would result in development that would preclude the City from fulfilling the goals of the Comprehensive Manhattan Waterfront Plan or the New York City Bicycle Master Plan.

**Comment 5-6:** The proposal does not show how the residual open spaces at the bottom of the towers would be useful. (CB6 Bulk Memo)

**Response 5-6:** The open spaces at the bases of the towers are intended to serve as integrated parts of larger open spaces, which would have a variety of passive and active recreational uses as detailed in Chapter 5, "Open Space."

## **First Avenue Properties Rezoning Final SEIS**

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**Comment 5-7:** Robert Moses Park and St. Vartan Park are not large enough for us now, let alone the thousands of new residents promised by the proposed development. (CB6-Buchwald)

**Response 5-7:** The SEIS analyzes the Proposed Actions' effects on the demand for existing open space resources, including Robert Moses Playground and St. Vartan Park, and concludes that the Proposed Actions would not result in significant adverse open space impacts, but rather would improve conditions. However, the area is currently underserved with respect to open space resources, and would continue to remain so in the future.

**Comment 5-8:** The Commission should explore the proposed pricing and size of the restaurant planned inside the pavilion to ensure it will attract a diverse range of patrons. While it would be an excellent amenity for the site, it is critical that the expense of patronizing the restaurant not create an "exclusive" atmosphere. (MAS)

**Response 5-8:** CPC is reviewing the plans for the pavilion and is considering modifications that would address the concerns raised by the commentator. The pavilion, including its café, is intended to be an attraction available for use and enjoyment by a broad range of patrons. The café is intended for casual, light food service, which would draw visitors into the plaza from the street. An operator for the café has not yet been selected, and therefore, specific pricing details can not be provided. Positioned on the promenade, the pavilion would be clearly visible as a distinctive destination from First Avenue. The pavilion would be accessible from the path along the water strip, the promenade, East 39th Street, and path connections through the lawn and central planter. The East 39th Street drive court could also be used as a vehicular drop-off for visitors to the pavilion. A significant feature of the proposed pavilion is the public observation deck. Accessible by stairs at the western end or an interior elevator, the second story overlook would be oriented for views of the open lawn, across the East River, and towards the UN Secretariat and the Queensborough Bridge. Moveable tables and chairs would loosely populate the area directly outside the main doors of the pavilion, extending the activity of the café seamlessly into the public plaza. People would be able to buy a sandwich or coffee in the café and return to the outdoor seating area to eat, drink, read, and enjoy the open views across the lawn, the water feature, the promenade and the East River. In this way the pavilion would contribute to the activity and use of the promenade.

- Comment 5-9:** The open space in the developer’s proposal is surrounded by massive private residential towers that cast shadows on the park. (CB6-1)
- Response 5-9:** Chapter 6, “Shadows,” in this Final SEIS provides additional detail on the shadows cast by project buildings on the new publicly accessible open spaces. While shadows would be cast by project buildings on all of the proposed open spaces, the eastward orientation of a large part of the open space on the 700 and 708 First Avenue parcels would ensure that some of the proposed open spaces would be in sunlight for large portions of the day.
- Comment 5-10:** Open space should be provided as mitigation for the change from low-density industrial use to high-density residential use, rather than in return for a plaza bonus. (CB6 Zoning Memo)
- Response 5-10:** See the response to Comment 5-1. The proposed development program includes approximately 4.8 acres of publicly accessible open space, an amount that exceeds the amount needed to support the open space demands of the projected new population, based on *CEQR Technical Manual* guidelines. In addition, approximately 2.82 acres of the project’s 4.84 acres of publicly accessible open space are bonusable, but only 1.49 acres are actually required to achieve the bonus FAR sought by the proposed development program.
- Comment 5-11:** A playground should be mandated and the developer should be required to supply playground equipment. (CB6 Parks Cmte)
- It might be useful to have a playground for children as part of the open space configuration. (Maloney)
- Response 5-11:** As described in Chapter 5, “Open Space,” the proposed development program would include a playground with equipment on the Waterside parcel.
- Comment 5-12:** The success of the pavilion may depend on its scale and in this case less may truly be more. A small snack bar and observation deck might serve; whereas a restaurant, occupying more space, wanting taxi and car drop-off, and needing delivery and garbage service and parking, is likely to usurp the open space. (CB6 OS Memo)
- Response 5-12:** As described in the response to Comment 5-8, the pavilion, including its café, is intended to be an attraction available for use and enjoyment by a broad range of patrons. The café is intended for casual, light food service. There would be no deliveries, sanitation trucks, or taxi and car drop offs for the pavilion permitted within the open space on the Waterside and 708 First Avenue development parcels. Drop-offs would

be limited to a portion of the alignment of East 39th Street beside the building and deliveries and sanitation would be accomplished in below-grade space. In addition, see the response to Comment 5-8.

**Comment 5-13:** To be useful for recreation as well as an attractive setting for the new buildings, the landscape needs to provide for a range of active as well as passive recreational activities for people of various ages. It also needs to control potentially disruptive or destructive activities. (CB6 OS Memo)

**Response 5-13:** As detailed in Chapter 5, "Open Space," the proposed publicly accessible open space would provide a range of active and passive recreational opportunities for people of various ages. The open spaces will be professionally maintained and served by private security officials.

**Comment 5-14:** How might the landscape design be different if its public areas were to be owned and operated by the New York City Department of Parks and Recreation? Would there be more active recreation? Where would the line be between the areas acceptable to Parks and the rest of the open space? (CB6 OS Memo)

**Response 5-14:** Issues regarding how the City would manage property it neither owns nor intends to acquire are beyond the scope of CEQR. The analysis in Chapter 5, "Open Space," considers the effects of the proposed development plan on passive and active recreation in the study area, and finds that the 4.8 acres of publicly accessible open space would improve both passive and active open space conditions compared with conditions without the Proposed Actions. Also described in the chapter is the building owner's responsibility for the maintenance and operation of the publicly accessible open spaces.

**Comment 5-15:** Construction of open space on the 616 First Avenue site is to be completed at the end of the construction project date of 2014. The open space should be built before the residential buildings so as to insure the community with the open space should the developer go out of business. (CB6 Safety Cmte)

**Response 5-15:** The restrictive declaration will include provisions relating to the sequencing of open space completion in relation to the construction and/or occupancy of project buildings.

**Comment 5-16:** The proposed open space and access to the river are highly desirable and would provide a valuable community amenity. The open space would also be an attractive and suitable demarcation between the

commercial and residential uses and its public accessibility would greatly benefit from the adjacent complementary uses. (REB)

**Response 5-16:** Comment noted. The analysis in Chapter 5, “Open Space,” finds that the proposed development program would provide open space of a quantity and quality that would improve overall conditions in the study areas, would provide much-needed open space, with unique features and amenities that are currently lacking in the study areas, and would not result in significant adverse open space impacts.

**Comment 5-17:** The Tudor City Park is being replaced with open space and public space that is most likely a wind tunnel area and that is a very questionable area in terms of people truly enjoying it on a day-to-day basis. Replacing the current benefits of Tudor City would be an immense tragedy. (Han)

The proposed park will end up being a wind tunnel. (TBA)

**Response 5-17:** The Tudor City open spaces are not being replaced or reduced by the Proposed Actions. As described in Chapter 5, “Open Space,” despite the unmitigated significant adverse shadow impacts on Tudor City open spaces during the December 21 analysis period, the Proposed Actions would, on balance, have a positive qualitative effect on open space resources within both the ¼- and ½-mile study areas. Therefore, the shadow impacts would not result in a significant adverse open space impact. The open spaces created by the Proposed Actions would be of substantial benefit to the local community. With respect to wind conditions, the Proposed Actions would not result in uses or building forms notably different from those characterizing other developed areas in Manhattan. Wind conditions are expected to be similar to other public open spaces in the area.

**Comment 5-18:** On the 616 First Avenue site, the developer is offering to have a plaza open to the public with access from 35th and 36th Streets. This is an interior plaza, surrounded by three buildings on the site and the Rivergate and Manhattan Place adjacent to the site. The EIS identified that much of this space would be cast in shadow in the morning and late afternoon. This will make the plaza much less useful to the community. The public space as currently configured is really an interior court that provides access to the buildings by residents. It is not configured as a public plaza with easy access to the outside community. These impacts can be mitigated by positioning the Public Plaza along First Avenue, which is consistent with the positioning of the public plazas of the surrounding buildings of Rivergate, Manhattan Place, and the Corinthian. (Wyckoff)

**Response 5-18:** As described in Chapter 23, “Mitigation,” by moving the 616 First Avenue building eastward, a publicly accessible open space could be provided on the site’s avenue frontage that could be in more sun. However, moving the building away from First Avenue would not meet the project’s urban design and land use goals of enlivening the street by providing ground-floor retail along the avenue.

**Comment 5-19:** From the public’s perspective, the “better site plan” justifying the waivers for the 616 site is the large contiguous public open space. This open space consists largely of the mid-block plaza which is mostly paved and partially cast in shadows by the proposed towers and Rivergate Apartments many times during the year. If an elementary school occupies the proposed community facility building, as the Applicant has indicated, the plaza will be devoted to its use, thereby creating a potential conflict between school and general public uses. (Stringer)

**Response 5-19:** Chapter 1, “Project Description,” describes the proposed modifications of height and setback regulations within a GLSD applicable to the 616 First Avenue parcels and the purpose and need for those waivers, and Chapter 8, “Urban Design and Visual Resources” concludes that the proposed modifications would have no significant adverse impacts on urban design. With respect to shadows on the 616 First Avenue open space, please see the response to Comment 6-3. As described in Chapter 23, “Mitigation” a vast majority of the school’s playground/yard space could be on the roof.

**Comment 5-20:** There are some aspects of the streetscape and plaza certifications/special permits that may be appropriate, such as not placing retail along the FDR Service Drive. However, there are many others which are not appropriate, such as reducing the amount of retail frontage on the streets, closing the plaza early, reducing the amount of seating, providing only 62 of the required 160 bike spaces, and providing fewer receptacles in the plaza than normally required. (Stringer)

**Response 5-20:** With respect to retail frontage, please see the response to Comment 8-12. With respect to closing the plaza early, please see the response to Comment 5-2. As described in Chapter 8, “Urban Design and Visual Resources,” any modifications of the public plaza standards would be intended to allow for a site plan and plaza design appropriate to the large open space proposed as part of the development program.

**Comment 5-21:** CB6 disagrees with the omission of analyses of microclimates resulting from particularly strong winds that are likely to occur at the bases of the proposed sheer and tall towers and would diminish the usefulness of open spaces. (CB6-1) Have any wind studies been conducted to anticipate the microclimate at the bases of the new buildings and in the open spaces? (CB6 Bulk Memo)

**Response 5-21:** The proposed buildings are similar, in terms of type and location, to many others situated along the waterfront in the City and would not be expected to create atypical wind conditions. The New York City Building Code does not require wind analyses. However, at a later stage of the design process, as is usual for high-rise structures, modeling and analysis of wind effects would be undertaken. As part of that examination, essentially to ensure that the structural design accounts for wind effects, a determination would also be made as to the desirability of providing canopies along the lower portion of the buildings' facades. Canopies are an effective wind-breaking measure for use at locations where pedestrian discomfort could occur around a building's base in high wind conditions.

## CHAPTER 6: SHADOWS

**Comment 6-1:** The massive towers of up to 69 stories will dwarf existing buildings and cast oppressive shadows on Tudor City Greens, St. Vartan Park, and Manhattan Place plaza as well as on the developer's own proposed open space. (CB6-1, CB6-Frank and Rubin)

It's amazing that out of 9.8 acres of great potential space that the design has come up with, it almost maximizes the impact against Tudor City. If you look at the most dense of the buildings, 708, the commercial building that's proposed; and the 685 building that's also proposed, they literally corner Tudor City like a Goliath over a David. (Han)

Some of the new buildings would be visible from the Tudor City Parks, over the tops of the existing buildings and would cast shadows on the parks. (CB6 Bulk Memo)

The proposed open space is surrounded by massive residential and commercial towers that would cast substantial shadows on the park. As the towers surrounding the open space rise to their full heights of between 47 and 66 stories without setbacks, they will likely feel intimidatingly large and oppressive to people attempting to enjoy the open space. (Krueger)

CB6 opposes 685 First Avenue being re-zoned to C5-2 and being included in the General Large Scale Plan solely to enable an excessively

tall 69-story tower to be constructed whose winter shadows will severely impact the Tudor City parks and which will be detrimental to the neighborhood. (CB6-Rubin)

The proposed waivers would cause significant unmitigatable adverse shadows on neighboring open spaces, including Tudor City's historic green spaces. The Draft SEIS shows that development scenarios which do not utilize the waivers do not cause significant shadow impacts, even if the same FAR is permitted on the site. It is, therefore, not clear that the proposed site plan does not unduly affect nearby residents' access to light and air or that the waivers enable a site plan with a superior relationship to surrounding buildings. (Stringer)

Under the current proposal the benefits of additional open space come at the cost of substantial shadows on our valued parks, such as St. Vartan's Park and the Tudor City Greens. (Garodnick)

Heights should be reduced to avoid the terrible adverse effect that the shadows of the proposed buildings would have on our very limited park space—in particular the effect on Tudor City Greens and St. Vartan Park. (Kavanagh)

Building heights should be limited to 200 feet to prevent shadows cast across the entire neighborhood, including the landmarked Tudor City Greens—one of the scant green spaces on the entire east side. (MLC)

We are concerned that the shadows cast by the ERRC project, specifically the building on the 685 First Avenue site, will have a major adverse impact on Tudor City and its parks. According to the PR firm representing ERRC, on March and September 26, this proposed building would create an additional 3 ¼ hours of dense shade in the south park during midday when park usage is heaviest. (Warshaw)

The building heights are not only out of character with the neighborhood but would also pose negative shadowing effects. The buildings would result in significant adverse shadow impacts on the Tudor City open spaces as well as cast shadows on Rivergate (Joseph Slifka Park), St. Vartan Park, the Manhattan Place Plaza, Robert Moses Playground, Trygve Lie Plaza, Corinthian Plaza, Glick Esplanade, and Ralph J. Bunche Park. With open space so important to the quality of life of residents, to have buildings cast shadows over the existing available open space is simply not acceptable. (Maloney)

I'm particularly concerned about the negative impact of the shadows on Tudor City. (Lappin)

To cast shadows over the historic parks of Tudor City and St Vartan Park simply makes, again, no logical sense. (CB6-Frank-Oral)

The slab towers along 36th Street put shadows on St. Vartan Park, and totally obscure the plaza at Manhattan Place. There's a planned plaza inside these buildings, which will be useless because of the three buildings that surround it. There will be shadows on it. (Wyckoff)

Every square inch of the Solow site shall have a skyscraper, and no sunshine shall penetrate the shadows from the skyscraper on Manhattan below. (CB6-Curtis)

Buildings of the proposed bulk, height, and capacity would dwarf the existing buildings in the community and cast oppressive shadows on open space, including St. Vartan's Park, Manhattan Place, Manhattan Plaza as well as on the proposed open space on the First Avenue Properties. (Krueger)

The wall of buildings proposed along First Avenue and 36th Street will block the neighborhood residents and visitors from enjoying the east river breezes and views and will create vast shadows on public parks/plazas and play areas, and will affect the quality of life for the residents of the neighborhood. (Wyckoff)

The heights of buildings should be reduced to lessen or eliminate the anticipated shadow impacts on nearby open spaces and to reflect neighborhood character. (Stringer)

**Response 6-1:**

Chapter 6, "Shadows," analyzes the shadow effects of the proposed development program's buildings on open space resources, including the proposed new open space. The analysis finds that the proposed buildings would result in significant adverse shadow impacts on the Tudor City open spaces and Manhattan Place Plaza during the winter analysis period. As described in Chapter 23, "Mitigation," and in the response to Comment 23-9, the heights of the proposed buildings at 708, 685, and 616 First Avenue would have to be reduced by an impracticable amount to eliminate the significant adverse shadow impacts on these resources. The SEIS concludes that the Proposed Actions would not have a significant adverse impact on the Tudor City open spaces on the March 21st/September 21st analysis day. On this analysis day, the proposed development program would not cast incremental shadow on the north Tudor City Greens or Mary O'Connor Playground. While the duration of the shadow increment on the south Tudor City Greens and Tudor Grove Playground would be 3½ hours on the March 21st/September 21st analysis day—as shown in Table 6-2 of the SEIS—the SEIS concludes that this would not result in a significant adverse impact given the availability of sunlit open space over the course of the day, particularly in the northern open spaces, and the relatively short duration of the incremental shadow.

The SEIS concludes that there would not be significant adverse impacts on St. Vartan Park. While the enjoyment of the passive recreation areas of the park would be reduced under the Proposed Actions in the mornings during all seasons, the overall usability of the park would not be affected, and the park would continue to receive substantial sunlight in the afternoon and evening hours. Regarding the shadow effects on St. Vartan, see also the response to Comment 6-4. With respect to building heights and urban design, please see the responses to Comments 1-28 and 8-1.

The commentator's statement that the development scenarios which do not utilize waivers do not cause significant shadow impacts even if the same FAR is permitted on the site, is not correct. Chapter 24, "Alternatives" assesses a 12 FAR All-Residential Alternative, which would be built to the same FAR as the proposed development program. That alternative does not include modifications of height and setback regulations applicable to the 708 First Avenue parcel, which would be developed with two residential buildings of 61 and 66 stories under the alternative. The analysis of the alternative concludes that it would result in the same significant adverse impacts to the Tudor City open spaces that would occur under the Proposed Actions.

With respect to the comment that buildings heights are out of character with the neighborhood, please see the response to Comment 8-1.

Chapter 6, "Shadows," finds that the proposed development program would cast incremental shadows on Joseph Slifka Park, St. Vartan Park, Manhattan Place Plaza, Robert Moses Playground, Trygve Lie Plaza, Corinthian Plaza, Glick Esplanade, and Ralph J. Bunche Park. Of these open space resources, the proposed development program would have a significant adverse shadow impact only on Manhattan Place Plaza during the December 21 analysis period.

With respect to shadow cast on the historic Tudor City open spaces, please see the response to Comment 7-2.

**Comment 6-2:** CB6 disagrees with the assumption in Chapter 6, "Shadows," that potential open spaces identified in CB6's 197-a plan on the block north of St. Vartan Park which contains the portals of the Queens Midtown Tunnel need not be studied and recommends that the Draft SEIS examine shadow impacts on these spaces. (CB6-1)

**Response 6-2:** The parcel identified in the comment is not a sensitive receptor as defined by the *CEQR Technical Manual*; it is not a publicly accessible open space or an important natural feature.

**Comment 6-3:** CB6 disagrees with the assumption in Chapter 6, “Shadows,” that shadows on the project’s on-site open spaces do not need to be disclosed in the same detail as the shadows on off-site open spaces. The Draft SEIS should examine shadow impacts on these spaces that are presented as the primary amenity the project would contribute to the community. (CB6-1)

**Response 6-3:** Chapter 6, “Shadows” of the Final SEIS includes a more detailed discussion of shadows on the proposed open spaces. The additional discussion was provided for informational purposes; the effects of those shadows on the project-generated open spaces are not considered to be a subject of impact analyses under CEQR.

**Comment 6-4:** CB6 disagrees with the determination of Chapter 6, “Shadows,” that the shadows added to St Vartan Park by the proposed development would not be significant because the determination assumes that the fenced lawn at the east end of the park would not be reprogrammed for other uses in the future. Alternative building configurations, including a diagonally oriented tower mirroring Manhattan Place, should be studied for 616 First Avenue to minimize shadows. (CB6-1, CB6-Frank and Rubin)

The building along First Avenue on the 616 First Avenue site will throw shadows onto St. Vartan Park for all of the morning and part of the afternoon. The shadows will fall on the lawn area adjoining First Avenue and the playground immediately beyond the lawn area. Both areas are used extensively by young children and the loss of sunlight will significantly impact their usage by the children. (Wyckoff)

**Response 6-4:** Final SEIS Table 6-2 and Figures 6-3 to 6-5, 6-8 to 6-10, 6-13, 6-14 and 6-17 present the extent and duration of incremental shadow on St. Vartan Park associated with the proposed development program throughout the year. As described in Chapter 6, “Shadows,” the fenced lawn at the eastern end of the park would experience more incremental shadow than other areas of the park, as it is closest to the 616 First Avenue site. At the same time, portions of the playground, seating areas and paved ball fields would continue to experience periods of sunlight during the morning hours in most seasons, even when the extent of incremental shadow would be greatest. All areas of the park, including the fenced lawn, would receive substantial sunlight in the afternoon and evening hours in the spring, summer and fall. The EIS concluded that while the enjoyment of the passive recreation areas of the park would be reduced under the Proposed Actions in the mornings during all seasons, the overall usability of the park would not be significantly affected. With respect to the fenced lawn at the eastern end of the park, it is

currently being used by the St. Vartan Play Group, a cooperative playgroup for pre-school-aged children sponsored by the NYC Parks Department. The playgroup generally meets from 10:30 AM to 1:00 PM three or four times a week in the adjacent structure and typically uses the lawn at the end of this period for an outdoor activity when weather permits. The fenced lawn is otherwise inaccessible to the public. DPR has no plans to open the fenced lawn at the east end of St. Vartan Park to public access.

With respect to considering other building configurations, please see the response to Comment 23-10.

**Comment 6-5:** CB6 disagrees with the determination of Chapter 6, “Shadows,” that the shadows added to Robert Moses Playground by the proposed development would not be significant because the determination assumes that space used for active recreation does not benefit from sunlight. In order to reduce shadows, 708 First Avenue should be rezoned to C1-9 and limited in height to 400 feet, as would be the case in the CB6 alternative. (CB6-1)

**Response 6-5:** According to the *CEQR Technical Manual*, “uses that rely on sunlight include passive use, such as sitting or sunning, and such activities as gardening, or children’s wading pools and sprinklers.... The assessment of an open space’s sensitivity to increased shadow thus focuses on identifying its facilities, plantings, and use, and the sunlight requirements for each” (Page 3E-9). Following established CEQR methodologies, the project’s shadow increments on the Robert Moses Playground are not considered to result in significant adverse impacts, because the open space is primarily a place of active recreation.

**CHAPTER 7: HISTORIC RESOURCES**

**Comment 7-1:** CB6 is disappointed that the two historic power plants were demolished before the completion of the Draft SEIS so that the determination of the GEIS that they were not of historic value, could not be reexamined. (CB6-1)

**Response 7-1:** Comment noted. As documented in the FGEIS, the New York State Office of Parks, Recreation and Historic Preservation reviewed the potential significance of the Waterside buildings and determined that the buildings did not meet the eligibility criteria for listing on the State and/or National Registers of Historic Places.

**Comment 7-2:** The Tudor City historic district is considered a light sensitive resource due to the importance of the window design and incorporated parks in

the district. The windows are particularly character defining in this district due to the diamond-paned windows and leaded glass windows with stained glass inserts of heraldic and emblematic form. We request consultation regarding the impact of shadows from the proposed new construction as these shadows have the potential to introduce atmospheric elements (shadows) that are out of character with the property or alter its setting. (SHPO)

**Response 7-2:**

As described in the Response to Comment 77 in the FGEIS, the sensitivity of a historic structure to sunlight depends on its design and setting—if the characteristics that make the resource historically significant depend on sunlight. The two Tudor City parks are the only sun-sensitive features of the Tudor City Historic District that would be affected by shadows from the development programs. Stained-glass windows, the other sun-sensitive feature of the Tudor City Historic District, face away from the development parcels and would not be shadowed by development on the parcels. The other types of windows in the district, the diamond-paned and more numerous non-ornamental windows, are not considered to be sun-sensitive features, as the details of those windows are not visible only in sunlight.

Chapter 6, “Shadows,” of the SEIS assesses shadow impacts on open spaces within Tudor City, which include the two parks in the historic district and two adjacent playgrounds. While that detailed analysis concludes that the proposed development program would have a significant adverse shadow impact on the December analysis day on the Tudor City open spaces, that impact would not translate into a significant adverse historic resources impact. The shadow impact on the December analysis day results from the project’s combined increment on the Tudor City parks and playgrounds, and the playgrounds are not part of the Tudor City Historic District. In addition, much of the parks are covered in existing shadow during the December analysis day. Shadows on the parks, while they might affect the usability of the parks as open space resources, do not physically alter or obscure those features as defining elements of the Tudor City Historic District.

**CHAPTER 8: URBAN DESIGN AND VISUAL RESOURCES**

**Comment 8-1:**

Buildings of the height and capacity proposed by ERRC would significantly add to the area’s already overburdened transportation and social infrastructure. (Krueger)

The proposed massing of the buildings is out of character with the neighborhood. (CB6 Bulk Memo, Maloney)

The objection to the sheer tower is based on the height, which is completely out of scale. To put 685 in a context on a generalized scale with what's happening on the east side makes no sense, but the height is absolutely critical. The C1-9 was created for street wall type buildings because it is more contextual. In this instance there is a generalized scale, which could allow for quite a bit of flexibility—maneuvering buildings and towers within their own generalized scale. But in no way is 685 part of that generalized scale. In terms of the whole project, we don't support towers and superblocks. A mix of towers and street wall is important. First Avenue should have street walls. (CB6-Rubin)

CB6 opposes the extremely tall and out-of-character towers that will establish an unprecedented, unwarranted, and unwanted scale for the east side of Manhattan. (CB6-Rubin)

The heights of the seven tower buildings—six residential, one commercial—most of which are 50-70 stories high, are still too high and inappropriate for the neighborhood, where most buildings reach only as high as 40 residential stories. (Duane, SAC-Bergin)

We find the ERRC plan and the CB6 plan to be inappropriate for the neighborhood, whose buildings are generally five to twenty stories high. (MLC)

The buildings proposed by ERRC are simply too tall for these sites and the zoning changes that would permit buildings as high as 69 stories should be rejected. (Kavanagh)

The buildings are simply too tall, they are simply too dense, and they have simply too much bulk. (CB6, Phaler, CB6-Frank-Oral)

ERRC's project, in a word, "size!" Outrageous, inappropriate, greedy size. If we must have more luxury housing, must it be the tallest buildings in the City? (Fine)

This project is too big, too dense, and it's just too gargantuan. (Han)

The proposed zoning districts provide for a "tower in the park" urban design, with sheer towers rising with no base within large open spaces. Other zoning districts permit the same overall density of development as proposed, but with streetwalls, setbacks and height requirements that reflect neighborhood context and promote a livable, active scale of development. (Stringer)

**Response 8-1:**

As described in Chapter 8, Urban Design and Visual Resources" of the SEIS, the proposed development program would not have significant adverse impacts on the urban design and visual resources of the study area. The proposed buildings on the 685 First Avenue, Waterside, and 708 First Avenue development parcels would be the tallest buildings in

the 400-foot-study area, but there are several nearby tall buildings that include the 512-foot-tall Corinthian, the 600-foot-tall Paramount Tower, and the 452-foot-tall Highpoint Condominiums. In the ½-mile study area, there are several buildings—including the 1,000-foot-tall Trump World Tower, the 1,048-foot-tall Chrysler Building, and the 769-foot-tall Metropolitan Life Building—that are taller than the tallest of the proposed buildings.

The proposed residential buildings—which range from 426,431 gsf above-grade to 973,728 gsf above-grade—would be larger than most of the buildings within the 400-foot-study area, but they would be similar in bulk to the Corinthian, the Rivergate, and the United Nations Secretariat, which are approximately 880,200 gsf, 835,200 gsf, and 861,000 gsf, respectively. Further, the proposed buildings would be consistent with other study area buildings in proportion to their footprints and floorplates. The tower dimensions of the proposed residential buildings that range from 157 feet by 60 feet to 168 feet by 84 feet would be smaller than the dimensions of the Corinthian (approximately 200 feet by 300 feet with floorplates of approximately 60,000 square feet) and the Rivergate (200 feet by 250 feet with floorplates of approximately 50,000 square feet) and similar to the dimensions of the Manhattan Place Condominiums and the Churchill Apartments, both of which measure approximately 180 feet by 60 feet (creating floorplates of approximately 10,800 square feet). In addition, the slender tower forms of the proposed buildings would reference the slab form of the Secretariat building.

CPC is considering modifications to the Applicant’s proposal that address the commentators’ concerns regarding the height, density, and design of the proposed buildings.

**Comment 8-2:**

The excessive height of the towers is an issue. There is the possibility that the excessive height of the buildings surrounding three sides of the project’s central lawn would be oppressive. It has been suggested that the presentation should include a perspective rendering of what one would see while lying on the lawn and looking at the sky. (CB6 OS Memo, CB6 Bulk Memo)

**Response 8-2:**

Please see the response to Comment 8-1. The urban design analysis in Chapter 8, “Urban Design and Visual Resources,” of the SEIS follows *CEQR Technical Manual* methodologies and considers impacts related to building use, bulk, height, setbacks, and density. While the proposed buildings are tall, that analysis concludes that the heights and massings of the proposed buildings would be compatible with the area’s urban design conditions and would not result in a significant adverse impact.

The requested perspective is not the appropriate basis for evaluating urban design impacts.

**Comment 8-3:**

Buildings should be no taller than 400 feet so as to be in scale with the existing urban context, including other apartment buildings that have been developed between First Avenue and the river, and so as to be differentially shorter than the United Nations Secretariat. (CB6-1, CB6-Frank and Rubin)

CB6 disagrees with the determination in both Chapter 7, “Historic Resources,” and Chapter 8, “Urban Design and Visual Resources,” that the proposed project “would not result in any significant adverse impacts” to the United Nations. The heights of the new buildings should be limited to 400 feet in deference to the Secretariat. (CB6-1)

The proposed massing of the buildings is disrespectful of the United Nations. (CB6 Bulk Memo)

The MAS is concerned over the impact of the proposed buildings on the skyline and on the UN Secretariat, particularly when viewed from the East and South West. The building heights proposed by ERRC—up to 680 feet—could not be described as contextual, in a neighborhood where most residential towers are in the region of 40 stories and the UN stands at 515 feet. The effect of a large number of buildings clustered at similar heights would create a deadening effect on the skyline, and an overbearing presence on the UN Secretariat building, the Tudor City Greens, and other structures in the neighborhood. A plan containing buildings with a significantly greater variation of height might create a more dramatic skyline with a smaller impact on the buildings that exist in the area. (MAS)

Building heights in any rezoning by CPC should be limited to 200 feet. This will prevent the obliteration of the iconic New York City skyline from the east. (MLC)

708 First Avenue, at 697 elevated feet, towers over the UN which is 488 feet, breaking the gentleman’s agreement that nothing is supposed to be higher than the Secretariat. (CB6-Curtis)

Because of its proposed commercial office zoned space, 708 First Avenue is the most egregious. At 697 elevated feet, it towers over the UN Secretariat, which is 488 square feet, wrecking the gentleman’s agreement that nothing is supposed to be higher than the Secretariat. Corporate offices are designated for a bona fide business district such as Third Avenue. (CB6-Curtis)

**Response 8-3:**

As noted in Chapter 8, “Urban Design and Visual Resources,” the proposed buildings on the 685 First Avenue, Waterside, and 708 First Avenue parcels would be taller than the Secretariat building but they would not block any important views of the building or change the area’s urban design features so that the Secretariat is no longer dominant in the area or so that the building’s context is altered. There are already existing buildings in the urban design study area that are taller than the Secretariat. In addition, an intervening block (between East 41st and 42nd Streets) developed with a Queens-Midtown Tunnel vent shaft is located between the 708 First Avenue development parcel and the United Nations complex. This block would buffer the relationship between the proposed office building, as well as the other proposed buildings, and the Secretariat—they would not be adjacent structures. Set well back from First Avenue within a large campus of low-rise buildings and open space, the Secretariat building would maintain its iconic position and relationship to the surrounding area. It would also remain the focal point of the East 43rd Street view corridor. Therefore, as noted in Chapter 8, “Urban Design and Visual Resources,” the proposed development would not adversely affect the Secretariat’s context or visual prominence.

Chapter 8, “Urban Design and Visual Resources” of the SEIS also concludes that the proposed development program would not have any significant adverse impacts on the Manhattan skyline as seen from Gantry State Park in Long Island City, from passing river traffic, or from south along the East River Esplanade. As seen from those locations, the proposed buildings would be prominent, new features of the dense Manhattan skyline. Views of the Chrysler Building, Empire State Building (views of which are currently blocked by the Corinthian), and the Secretariat would not be blocked from Gantry State Park. Therefore, the new additions to the skyline would not have any significant adverse impacts on views or visual resources.

CPC is considering modifications to the Applicant’s proposal that could affect the height and the massing of the proposed buildings.

**Comment 8-4:**

The absence of the proposed United Nations building on Moses Park is noted, with the observation that 41st Street between it and the adjacent mixed-use building at 708 First Avenue would be narrow, dark, and windy and that the 708 building would tower over the new United Nations building. (CB6 Bulk Memo)

**Response 8-4:**

Chapter 8, “Urban Design and Visual Resources” of the SEIS includes an analysis of the Proposed Actions with the UNDC building in the future condition. In this condition, the 505-foot-tall UNDC building

would add to the tall buildings in the study area and it would block existing views of the Secretariat building in views north on First Avenue from between East 39th and 41st Streets.

In the future condition with the UNDC project, East 41st Street would have the character of other streets in the study area. It would retain its existing 60-foot width and would be bordered by the proposed building on the 708 First Avenue parcel, the UNDC building, the Queens-Midtown Tunnel vent shaft, and the eastern portion of Robert Moses Playground. The street would be no narrower, darker, or windier than other east-west streets in the study area.

**Comment 8-5:**

The ERRC proposal is inconsistent with good planning practices and precedents by the City in that it fails to restore demapped streets in order to reestablish small walkable blocks, as is being done at the former World Trade Center. (CB6-1)

While we appreciate the developer's efforts to design "driveways" on the original street beds of 39th and 40th Streets that would look distinct from the rest of the site and would be the same width as typical streets, this is insufficient to create a public feeling space. Extending the street grid back through the former Con Ed site would guarantee against the development becoming a private-feeling enclave, enhance the public quality of the open space on the site, provide a publicly controlled means of accessing the waterfront, and extend pedestrian circulation opportunities. (MAS)

**Response 8-5:**

As described in Chapter 8, "Urban Design and Visual Resources" of the SEIS, the alignments of East 39th and 40th Streets would become landscaped pedestrian ways that would reference the original block and street pattern, even though the alignments would not be remapped. The landscaped pedestrian ways would provide public access through the Waterside and 708 First Avenue parcels and would also provide access for emergency vehicles. With respect to the comment regarding the public character of the open space, please see the response to Comment 1-9. For an analysis of treating the alignments as City streets, see the discussion of the CB6 Alternative in Chapter 24, "Alternatives."

**Comment 8-6:**

I don't understand the rationale for keeping the streets as part of a superblock. Superblocks are the wrong thing for cities. (Phaler)

**Response 8-6:**

As described in Chapter 8, "Urban Design and Visual Resources," superblocks are not uncommon in this area. This site affords an opportunity for the provision of unique, expansive, and much-needed publicly accessible open spaces as well as broad waterfront vistas and

the maintenance of view corridors along the alignments of East 39th and East 40th Streets. The superblock configuration of the project site, its long-standing condition, would not conflict with the City's street grid due to its location on the eastern edge of Manhattan.

**Comment 8-7:** CB6 opposes a second curb cut for 685 First Avenue on 39th Street. (CB6-1)

**Response 8-7:** Comment noted. The two curb cuts on East 39th Street for the 685 First Avenue parcel are for the building's loading dock and accessory parking garage. The loading dock would be located on East 39th Street, a narrow street, to move truck deliveries off of First Avenue, which is part of the approach to the Queens-Midtown Tunnel. The second curb cut would provide access to a through-block drive from which the accessory parking garage would be accessed. Cars would enter the drive from eastbound East 40th Street and exit the garage and drive from westbound East 39th Street, thereby avoiding First Avenue. The two curb cuts on East 39th Street are intended to improve the site plan for the 685 First Avenue parcel and traffic circulation.

**Comment 8-8:** CB6 disagrees with the omission in both Chapter 7, "Historic Resources," and Chapter 8, "Urban Design and Visual Resources," of an analysis of views from the streets and open spaces of Tudor City of the proposed new buildings to identify the extent to which the new buildings would be visible above the existing buildings bounding the Tudor City open spaces. The proposed buildings should be no taller than 400 feet, as would be the case in the CB6 alternative, in order to minimize such views. (CB6-1)

**Response 8-8:** The SEIS follows CEQR methodologies and thoroughly analyzes the proposed development program's potential impacts on the urban design and visual resources of the study area, as well as on historic resources.

**Comment 8-9:** CB6 disagrees with the omission of the following in Chapter 8, "Urban Design and Visual Resources," and recommends that the Draft SEIS be modified to provide an analysis of views along the east-west streets, including 39th and 40th Streets, to compare views as they would be with standard sky exposure planes and with the proposed height and setback modifications. CB6 recommends that the Draft SEIS be modified to provide such an analysis. (CB6-1)

**Response 8-9:** Chapter 8, "Urban Design and Visual Resources" of the SEIS does include an analysis of views along the east-west streets, including East 39th and 40th Streets. This analysis compares existing views toward the waterfront along East 39th and 40th Streets to views under the Proposed

Actions. Chapter 24, “Alternatives” compares views toward the waterfront along East 39th and 40th Streets under the Proposed Actions to views under the CB6 Alternative, in which buildings would be constructed in accordance with the height and setback regulations of a C1-9 zoning district, which has tower-on-a-base requirements. The SEIS concludes that views toward the waterfront through the Waterside and 708 First Avenue development parcels would be more expansive under the Proposed Actions, because much of the site would be developed with a large open space. Pursuant to the special permits to modify height and setback regulations, the proposed buildings would be designed as slim structures sited and massed to disperse their bulk across the development parcels, thereby allowing for the provision of the large open space and the new, enhanced views to the waterfront.

**Comment 8-10:** The proposed buildings rise to their full height without setbacks. This raises three issues with respect to the open space. The buildings will feel intimidatingly large and oppressive for a person standing at or near their bottoms, the microclimate is likely to be excessively windy, and the views along the several streets to the river will be squeezed. (CB6 Open Space Memo)

**Response 8-10:** See the response to Comment 8-1 regarding impacts related to the heights and setbacks of the proposed buildings. The expansive open space proposed for the 700 and 708 First Avenue parcel would provide wide open views of the East River and Queens, as depicted in Figures 8-28 and 8-29 in Chapter 8, “Urban Design and Visual Resources” in the SEIS. See response to Comment 5-21 regarding wind conditions, and the response to Comment 8-9 regarding views on East 39th and 40th Streets through the Waterside and 708 development parcels. On East 35th and 36th Streets, views toward the river would not be “squeezed” as the buildings on the 616 First Avenue development parcels would be set back 20 feet from those streets, thereby opening views toward the waterfront. While the WS1-1 building would be built to the lot line on East 38th Street, it would not “squeeze” views toward the waterfront along the street.

**Comment 8-11:** The previous site plan treated the entire area between the extensions of 39th and 40th Streets as open space, more likely to be perceived as a public space. When the heights of the towers were reduced slightly a tower was inserted at the southwest corner of the open space. The new tower will take ownership of the area around it and weaken the perception of the central lawn as public open space. It also places the proposed pavilion in a location that is more likely to be perceived as private than public. (CB6 OS Memo, CB6-Frank and Rubin)

**Response 8-11:** The WS2-1 building would not weaken the perception of the central lawn as public open space as claimed by the commentator. As described above in the response to Comment 8-2, the WS2-1 building would be located on First Avenue and would flank less than half of the central lawn's southern frontage. The central lawn would be clearly open to the public as it would front on First Avenue and be open to the street with no curbs or changes in level, or trees along the avenue between the alignments of East 39th and 40th Streets. In addition, a paved, public walkway bordered by seating would lead from First Avenue on the north side of the WS2-1 building through the central lawn. The pavilion would be clearly accessible from the public open space, and its location at the eastern edge of the site would permit views toward the East River from the pavilion's seating areas.

**Comment 8-12:** Approximately half of the frontage of the various parcels along First Avenue is shown as retail. This is enough to provide a useful service for the residents but not to establish a busy and interesting sidewalk. The office-building lobby has a glass wall facing south but apparently no doors. This discourages the office workers from using the open space but probably does not make it seem more public to anyone else. (CB6 OS Memo)

**Response 8-12:** The proposed developments on the 616 First Avenue, Waterside, and 708 First Avenue parcels meet the retail continuity requirements of the Zoning Resolution. While it is proposed that development on the 685 First Avenue parcel not meet the applicable retail continuity requirements, the overall proposed development program would substantially add to the retail supply of the neighborhood and enliven the streetscape.

As shown on Figure 1-7 in the SEIS, the office building is envisioned to have four entrances to the open space along its southern frontage, as well as entrances along its eastern frontage. However, the entrances and interior arrangements of the proposed buildings as shown in the SEIS are subject to change within the limits of the zoning envelopes. The proposed office building would be designed in accordance with all egress requirements and would therefore have entrances on the southern frontage.

CPC is considering modifications to the Applicant's proposal that would require additional retail frontage on First Avenue.

**Comment 8-13:** There is concern that rather than invigorating the streets for the entire neighborhood the shops and lobbies will turn in on themselves and seem a private enclave. (CB6 OS Memo)

## **First Avenue Properties Rezoning Final SEIS**

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- Response 8-13:** It is the Applicant's intent that the retail uses along First Avenue and the alignment of East 39th Street would be designed to maximize their visibility and to enliven the streetscape. Like the lobbies of other private residential and office buildings, the lobbies of the proposed buildings would only be accessible to residents, employees, and visitors. However, it is the Applicant's intent that the lobbies would be designed to be transparent and visually open to the streets and open spaces.
- Comment 8-14:** ERRC proposes that the streetwall along 38th and 41st Streets from First Avenue to the FDR service road have a glass façade but not contain any active use behind the façade that would generate or encourage pedestrian activity. While the MAS agrees that the location of this area does not lend itself to thriving retail, the MAS believes that the Commission should require active uses along this streetwall, such as service-oriented retail (e.g., dry cleaners) or community facility uses. Active uses would ensure that the streets do not become deadened or made unsafe by an absence of activity and little or no visual interest for pedestrians. (MAS)
- Response 8-14:** Comment noted. The urban design analysis did not identify any significant adverse impacts associated with the streetwall and frontage design of the proposed development program.  
CPC is considering modifications to the Applicant's proposal that would require additional retail frontage on First Avenue.
- Comment 8-15:** CB6 opposes reducing retail continuity from 50 percent to 33 percent on the First Avenue frontage of 685 First Avenue. (CB6-1)
- Response 8-15:** Comment noted. CPC is considering modifications to the Applicant's proposal that would require additional retail frontage on First Avenue.
- Comment 8-16:** Generally speaking, we believe that the retail spaces should be at least 60 feet deep in order to have a large number of relatively narrow frontages facing First Avenue. Wide frontages usually have less interesting window displays and result in a greater sense of emptiness when there is a vacancy. In addition, retail tends to be more successful if the frontages are continuous, which suggests that the residential lobbies should face the streets rather than the avenue. (CB6-Frank and Rubin)
- Response 8-16:** Comment noted.
- Comment 8-17:** If the property were rezoned to C1-9 instead of C5-2 and C4-6, the buildings would be subject to tower-on-a-base zoning regulations.

These regulations apply to much of the surrounding area and are intended to produce street walls in scale with the streets and other open spaces and towers in scale with their neighbors. Also, the setback of the tower above the base protects the views along the various streets.

The tower-on-a-base rules encourage a building to have a street wall in scale with the street, to set its upper floors back from the street above a street wall, limit the overall height of the tower, and to earn additional floor area by providing affordable housing rather than a plaza. The proposed sheer towers in open space would not maintain the existing contrast, while tower-on-a-base buildings on the Con Ed properties would.

The Rivergate, Manhattan Place, and the Horizon are a more obvious precedent for what might be allowed on the Con Ed properties than is the C5-2 district occupied by the United Nations.

Have other building shapes been considered—perhaps buildings with bases and towers that continue the street walls and are in scale with their surroundings? (CB6 OS Memo, CB6 Zoning Memo, CB6 Bulk Memo)

**Response 8-17:**

Buildings with tower-on-a-base massing are considered under the CB6 Alternative in Chapter 24, “Alternatives” of the SEIS. The commentator’s suggestion that the setback of a tower above a base protects views along adjacent streets is inaccurate, because the pedestrian’s view along a street is at eye level. View corridors are more or less expansive based on the footprint and streetwalls of adjacent buildings. As described in Chapter 8, “Urban Design and Visual Resources” of the SEIS, the proposed buildings would be similar in bulk to the Corinthian, the Rivergate, and the United Nations Secretariat and they would be consistent with other study area buildings with respect to their footprints and floorplates. While the proposed buildings on the 685 First Avenue, Waterside, and 708 First Avenue parcels would be the tallest buildings in the 400-foot-study area, there are several nearby tall buildings (see the response to Comment 8-1). In addition, there are numerous examples of tall buildings in the study area that do not have tower-on-a-base forms and do not maintain surrounding street walls, including the Secretariat, Manhattan Place, and the Corinthian. In addition, it should be noted that the tower form allows a greater opportunity for provision of open space as it provides a smaller building footprint.

**Comment 8-18:**

The design seems to take advantage of the community—as does the tower on the west side of First Avenue between 47th and 48th Streets—rather than contributing to and improving the built fabric to the benefit of all. (CB6 Bulk Memo)

## First Avenue Properties Rezoning Final SEIS

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- Response 8-18:** The SEIS does not identify significant adverse impacts on urban design and visual resources. As described in Chapter 8, “Urban Design and Visual Resources,” the proposed development program would have beneficial effects on the study area by redeveloping vacant parcels, would provide streetscape elements compatible with the study area, and new ground-floor retail uses and open space that would enliven the area’s streetscape and provide pedestrian amenities.
- Comment 8-19:** Because of their similar height but greater number, the new buildings almost make the Trump tower look good. (CB6 Bulk Memo)
- Response 8-19:** All of the proposed buildings are substantially shorter than the 1,000-foot-tall Trump World Tower.
- Comment 8-20:** Would a better site plan lead to a better massing of buildings? Specifically if the public open space were located on the waterfront rather than in the center of the project, how might the massing be changed? (CB6 Bulk Memo)
- Response 8-20:** The waterfront is not owned or controlled by the project Applicant. A site plan in which the project open space is located on the waterfront is considered under the CB6 Alternative in Chapter 24 of the SEIS.
- Comment 8-21:** None of the materials showed a north-south elevation. The rendering that was shown makes the proposed 685 First Avenue building look shorter than the buildings in front by virtue of perspective. When you see all these pictures of the park you don’t see the 600-foot walls that hem it on all sides. (TBA)
- Response 8-21:** Figures 8-31 through 8-33 in Chapter 8, “Urban Design and Visual Resources” show the building on the 685 First Avenue site as it would be seen by pedestrians in north and south ground-level views along First Avenue. Figure 8-31 clearly shows the building as being taller than the existing building in the foreground. As described above in the response to Comment 8-2, only two buildings flank the proposed central lawn—the office building and the WS2-1 building—and they would not extend across the entire site. The other two buildings on the Waterside development parcel are located on the south side of the alignment of East 39th Street and do not border the central lawn.
- CPC is considering modifications to the Applicant’s proposal that address the commentator’s concern regarding the height of the 685 First Avenue building.

**Comment 8-22:** The architectural style proposed by ERRC seems engaging at close range but not as interesting from a distance. As the design evolves, MAS hopes that ERRC will create a family of buildings with a bolder skyline presence, comparable to Rockefeller Center, the Bloomberg Building, and other structures whose presence in the New York skyline is notable. (MAS)

**Response 8-22:** Comment noted.

**Comment 8-23:** The application for the 616 site meets many of the findings delineated by ZR §74-743(b), but it is not clear that the requested waivers would result in better site planning and create a better relationship with existing buildings and open space, or that the development would not unduly obstruct access to light and air to the detriment of the nearby neighborhoods, as the Zoning Text requires. It is neither clear that the proposed plaza and site plan are sufficient to justify the requested waivers, nor that the proposed plaza layout produces a superior relationship with surrounding buildings. (Stringer)

The block 945/970 development site is one of the few large-scale opportunities to mend the fabric of Manhattan’s grid, reinforce its street life, reinvigorate a long-desolate streetscape, and re-connect neighborhoods. By adhering to a “tower in the park” design, the project does not sufficiently embrace these principles, and does not result in a better site plan as required for the GLSD special permit. (Stringer)

As with the proposed General Large Scale Development at 616 First Avenue, it is not clear that the waivers meet the requirement for better site planning on the Block 945/970 site [the 700 and 708 First Avenue parcels]. The proposed design follows the ‘tower in the park’ model, and has a number of urban planning drawbacks typical of that style. For example, while the amount of open space on the superblock is quite generous and features a number of attractive amenities, the distance between the buildings interrupts the potential for better continuity of active uses to draw people along the pedestrian ways and into the open space, and in some cases creates pockets of isolated retail and areas with little activity. These concerns are particularly apparent along the pedestrian ways where the main “destination points” in the open space network are furthest, and not always visible, from community entry points along First Avenue. The plan could also better activate the west side of First Avenue, where retail uses are intermittent and in some cases very far apart. Similarly, the proposed waiver of street wall transparency along 38th Street and 41st Street could lead to an unfriendly pedestrian environment without any active uses or retail directly facing the either street. (Stringer)

Rezoning and redevelopment of these properties should occur, but based on urban design and planning principles that meet community and City policy goals. Development on this site should be based on the shape and rhythms of the City's streets, rather than a tower-in-the-park design. (Stringer)

**Response 8-23:**

Chapter 8, "Urban Design and Visual Resources," analyzes the proposed development program's design elements and finds that the Proposed Actions would not result in significant adverse impacts with respect to urban design and visual resources.

Chapter 8, "Urban Design and Visual Resources" of the SEIS assesses the proposed modifications of height and setback regulations and determines that the Proposed Actions would not have any significant adverse impacts on urban design. That analysis (along with Chapter 1, "Project Description") also describes how the site plan of freestanding, tall and slender towers allows for the provision of a large, central open space on the 700 and 708 First Avenue parcels. The urban design analysis also describes numerous existing examples of residential buildings with tower-in-a-park designs in the study area, including the Corinthian and Manhattan Place. The U.N. Secretariat is also a tower slab set back from the street. Regarding the pedestrian ways, the alignment of East 40th Street would lead into a clearly defined, publicly accessible open space and the alignment of East 39th Street would provide views to the public pavilion.

The 685 First Avenue parcel is the only project site on the west side of First Avenue, and the proposed building there would have ground-floor retail. Regarding the proposed waiver of street transparency, see the response to Comment 8-14. CPC is considering modifications to the Applicant's proposal that would require additional retail frontage on First Avenue.

**CHAPTER 9: NEIGHBORHOOD CHARACTER**

**Comment 9-1:**

The plans to change the zoning and develop the site at 616 First Avenue area seriously flawed and detract significantly from the quality of life that exists in the surrounding neighborhood. Since the developer has requested a significant zoning change, the development at 616 First Avenue site should add to the quality of life for the neighborhood residents. Instead the development significantly detracts from it. (Wyckoff)

**Response 9-1:**

The SEIS analyzes the project's potential for significant adverse neighborhood character impacts, and concludes that there would not be such impacts.

**Comment 9-2:** CB6 opposes the extension of commercial zoning, which was uniquely designated for the United Nations, into an otherwise overwhelmingly residential area, zoning which diminishes rather than enhances the neighborhood character. (CB6-Rubin)

With the exception of the United Nations, the surrounding community is predominantly residential. Adding significant new commercial uses to the area would have a significant impact on the character and quality of the life of this residential neighborhood. (Stringer)

**Response 9-2:** The SEIS comprehensively analyzes impacts of the proposed 1.5 million-square-foot office building. In addition, the SEIS determined that the Proposed Actions would not have significant adverse impacts on neighborhood character. Chapter 24, “Alternatives,” analyzes the potential for significant adverse impacts resulting programs without a commercial office use—i.e., the CB6 Alternative, which includes C1-9 zoning, and the All-Residential Alternative—and compares the potential impacts against those identified for the Proposed Actions.

## CHAPTER 10: NATURAL RESOURCES

**Comment 10-1:** CB6 disagrees with the omission in Chapter 10, “Natural Resources,” of an analysis of the numbers of birds likely to be killed by flying into the proposed glass sheathed buildings as opposed to buildings enclosed in other materials. The Draft SEIS should disclose this information. (CB6-1)

Would the facades of the buildings be masonry or glass, considering that birds can kill themselves flying into glass towers? (CB6 Bulk Memo)

**Response 10-1:** Chapter 11, “Natural Resources,” considers the potential for significant adverse impacts due to bird strikes, and finds that the proposed building heights would result in losses of some bird individuals due to building collisions, but would not result in significant adverse impacts to populations of songbirds migrating through New York City. There are a number of factors that influence the likelihood of an individual building causing bird strikes, including, but not limited to: building height; location with respect to water bodies and migratory patterns; reflectivity of building exterior; proximity of expansive open spaces and trees; and levels and extent of interior and exterior lighting. Given the various factors and the limited data counts from other buildings, it is not possible to control for any one contributing factor (such as reflective building exterior) and project with any accuracy the number of bird kills attributable to that element. As described in Chapter 11, “Natural Resources,” measures to reduce potential bird strikes would be

considered in the development of the design for these structures. The Applicant has stated that it is considering measures to reduce the potential for bird strikes; such measures include utilizing building glass with low reflectivity as well as exterior sun shading systems that would visually break up the glass and make it more visible to birds, and minimizing external façade lighting on the residential buildings.

## **CHAPTER 12: INFRASTRUCTURE**

**Comment 12-1:** CB6 disagrees with the omission in Chapter 12, “Infrastructure,” of a discussion of retaining stormwater on site or disposing of stormwater through filters and storm sewers rather than through combined sewers in order to reduce overflows during storms. The Draft SEIS should be modified to disclose this information. (CB6-1)

The critical long-term issue of stormwater management has been overlooked, by-and-large. Overlooking proper stormwater management is poor land use planning, and will diminish the community’s ability to use and enjoy the waterfront. For example, the community hopes to see a beach on the waterfront some day. Combined sewer overflows (CSOs) would force frequent beach closures. The Draft SEIS fails to adequately address onsite stormwater retention and mitigation of the site’s CSO impacts. (Gaia)

**Response 12-1:** Chapter 12, “Infrastructure” in the Final SEIS provides additional detail on the project’s stormwater retention and disposal strategies. The Applicant has agreed to provide on-site detention for the 616 and 685 First Avenue parcels and to upgrade a segment of sewer pipe in First Avenue to accommodate the flows from these buildings.

For the Waterside/708 First Avenue parcel, it is anticipated that all stormwater flow would be directed to one of two existing storm sewers immediately east of the former East 39th and East 40th Streets. These two storm sewers discharge to the East River. Field inspection of the two storm sewers is being performed to verify the conditions of both pipes. It is believed that both storm sewers are functional. However, if the field inspection reveals that one or both storm sewers are in substandard condition, they would be rehabilitated if possible. If these storm sewers could not be rehabilitated, the stormwater from the Waterside/708 First Avenue parcel would be detained on site and discharged to adjacent combined sewers at an allowable rate. Flows from the parcel would be conveyed through new connections to the existing combined sewers. If the existing storm sewers and outfalls are determined to be in good condition, or if rehabilitation is feasible, the flows would be diverted from the combined sewer system and Newtown

Creek WPCP and into the existing storm sewers that discharge into the East River.

The measures described above—to be enforced through the restrictive declaration—would reduce the frequency and volume of CSO events in the vicinity of the development parcels and, to a certain extent, CSO events at other locations within the Newtown Creek Water Pollution Control Plant’s (WPCP’s) service area, as compared with conditions in the future without the Proposed Actions.

**Comment 12-2:**

CSOs are already the single largest contributor of pollutants and pathogens to local waters, thereby causing violations of water quality standards, and impairing both human use and ecological function. The Draft SEIS fails to properly evaluate how the project will exacerbate the CSO problem. In fact, the additional sewage generated from this project will increase the volume (and perhaps frequency) of these polluted, and illegal, discharges, resulting in additional pathogens and oxygen demand in the East River and Newtown Creek to the detriment of its aquatic life and recreational uses. (Riverkeeper)

While the Draft SEIS acknowledges that "the total flow into the sewer system would increase compared to the future conditions without the Proposed Actions," the Draft SEIS must study the extent of this impact and make a determination as to its significance. If it is significant, they must develop and propose mitigation measures. (Gaia)

The Draft SEIS states that “through the combination of the project sponsor consulting NYCDEP early in the infrastructure planning for the site and through obtaining the appropriate sewer connection permits prior to construction, the proposed project would not have a significant adverse impact on the sewer system.” The measures outlined in the Draft SEIS that would take place prior to connecting the buildings to the sewer system (NYCDEP review, meeting flow restrictions, and obtaining permits) are inadequate. The issue is not whether there will be an impact on the sewer system, but whether the project will cause the sewer system to overflow more waste into the East River and Newtown Creek. There is no basis on which to conclude that there will not be a significant impact because they have not done the analysis yet, and therefore the impacts have not been subject to public scrutiny. (Riverkeeper, Gaia)

This nearly ten-acre parcel represents the largest currently undeveloped waterfront property in Manhattan. The East River already suffers from a number of Tier 3 combined sewer overflows. If stormwater impacts of new development on the site are not properly analyzed, and if

mitigation strategies are not planned, the community and the environment are likely to suffer. (Gaia)

**Response 12-2:**

More detail was added to the analysis of infrastructure impacts between the Draft SEIS and the Final SEIS, and as stated in Chapter 12, “Infrastructure,” of the Final SEIS, the volume of sanitary sewage generated during dry weather is within the capacity of the sewer system and the Newtown Creek WPCP, and would not cause CSO events.

During wet weather, the proposed detention system and separate stormwater discharge, as described in Chapter 12, “Infrastructure” of the Final SEIS, would reduce the frequency and volume of CSO events compared with conditions in the future without the Proposed Actions. Using NYCDEP standard methods of calculations, the site—when vacant—discharges about 15.5 cubic feet per second (cfs) of stormwater into the combined sewer system. With the proposed diversion of stormwater from the developed 700 and 708 First Avenue parcels, the total discharge of stormwater into the combined sewer system from the proposed development program would be 11.7 cfs, a reduction of 3.8 cfs. This is sufficient analysis to conclude that the volume and frequency of CSO events would decrease as compared with conditions in the future without the Proposed Actions, and that therefore the proposed development program would not have significant adverse impacts on water quality in the East River.

**Comment 12-3:**

The Draft SEIS is inadequate because it fails to provide a cumulative impact analysis of the significant adverse impacts caused by the project's increased CSO discharges in connection with two other large proposed development projects in the same sewershed, the Greenpoint-Williamsburg Rezoning and the United Nations development project, as well as other projects planned along the East River waterfront, such as the East River Waterfront Esplanade and Piers Project. (Riverkeeper)

**Response 12-3:**

The comment is incorrect. The Draft SEIS was adequate, and was prepared in conformance with all applicable procedures and regulations. NYCDEP uses population projections from the New York City Department of City Planning to estimate future flows to each of the WPCPs, including the Newtown Creek WPCP. These population projections include known future projects as well expected background growth. The assessment of potential impacts of the proposed development program was based on NYCDEP’s flow projections to the Newtown Creek WPCP in 2015 and includes the potential cumulative impact of other projects.

**Comment 12-4:** The project should adopt the goal of eliminating net increases in sewage overflows from the Project Site to the sewage system serving the Newtown Creek Water Pollution Control Plant. The Rezoning Project should endeavor to eliminate East River and Newtown Creek CSO events in the wastewater service area of the project site, significantly reduce CSOs to the East River and Newtown Creek triggered by stormwater flows from neighboring properties, and reduce system-wide CSO events triggered by downstream bottlenecks. (Riverkeeper)

**Response 12-4:** With the proposed detention system and separate stormwater discharge, the frequency and volume of CSO events is expected to decrease with the proposed development program. Reducing stormwater flows from neighboring properties and correcting any downstream bottlenecks in the New York City sewer system is not within the control of the project sponsor. The proposed detention system and separate stormwater discharge requirements would be enforced through the restrictive declaration.

**Comment 12-5:** Thousands of people are using New York City's waters for recreation despite the water quality violations. The Draft SEIS should also analyze impacts on existing, actual surface water uses, not just uses prescribed by regulatory classifications. (Riverkeeper)

**Response 12-5:** Regardless of how the East River is classified, the reduction of CSO events, as described above and in Chapter 12, "Infrastructure," would lessen the discharge of pollutants and pathogens and would improve water quality in the East River as compared with conditions in the future without the Proposed Actions. Regulatory classifications are recognized as the scientific and proper measure of potential impacts. The classifications are changed as water quality improves and the uses of a water body change. See also the response to Comment 12-1.

**Comment 12-6:** The Draft SEIS fails to quantify the volume and flow rate of stormwater that will run off the project site into the City's combined sewage system if the project is built as proposed. In addition, the Draft SEIS provides no detailed information on the constraints of the combined sewer system infrastructure in the immediate vicinity of the project site or anywhere else in the project's sewershed. (Riverkeeper)

**Response 12-6:** Because the proposed detention system and separate stormwater system would reduce the frequency and volume of CSO events ~~by 3.8 cfs~~ as compared with conditions in the future without the Proposed Actions, there is no need to quantify CSO events. The Final SEIS does include a quantified analysis of projected stormwater flow. Based on future flow projections for the area in which the development parcels are located,

NYCDEP's Bureau of Water and Sewer Operation has concluded that with the on-site detention, use of storm sewers, and sewer upgrade proposed, the sewer infrastructure would have sufficient capacity to accommodate such flows. Therefore, no significant adverse impacts to the sewer system would occur.

**Comment 12-7:**

The Draft SEIS fails to set forth and analyze measures sufficient to mitigate the project's significant impacts to surface water quality. The Draft SEIS should set forth green building practices, decentralized greywater and blackwater treatment and detention systems sufficient to meet a modest goal of "no net CSO increases" and a superior standard of no untreated sanitary sewage or stormwater contributions to City sewers." (Riverkeeper)

Several recent large-scale development projects in New York City have incorporated consideration of low impact development features into the project proposals in order to minimize the potential stormwater and CSO impacts. Atlantic Yards DEIS included a number of site-specific stormwater management approaches that "would result in a net reduction to stormwater discharges (over the No Build condition), thus minimizing effects of CSO impacts and the resulting potential for any adverse water quality impacts on the Gowanus Canal or the East River." These measures included "water conservation to reduce sanitary wastewater flows; on-site detention and retention tanks for stormwater with multi-level discharge points to optimize storage; and re-use of captured stormwater within the project site."

For the First Avenue Properties Rezoning, the Applicant should at least commit to the measures planned for both the WTC and Atlantic Yards sites. There are existing technological solutions to some of the project's impacts that the City can and should put into place to ensure that it meets the stated goal of environmental sustainability. In particular: (1) Low impact development features that maximize permeable soil infiltration should be installed to further reduce CSOs by decreasing stormwater and CSOs; (2) Green roofs should be installed throughout the proposed project; (3) The proposed project should provide for water reuse; (4) Street trees and rain gardens should be planted; (5) Mitigation measures within the drainage basin should be added. The Applicant should examine the optimal methods by which to capture stormwater in the tree pits and open plazas of the proposed project's publicly accessible open space, and should also address the environmental benefits of proper stormwater management. (Riverkeeper)

Other large development projects in the city address the stormwater and CSO issues in more straightforward manner than this Draft SEIS. For

example, the WTC redevelopment project's greywater system will result in an annual average reduction of 85 percent in stormwater discharges to the combined sewer. The Atlantic Yards DEIS, while not ideal, states that reuse “would include using recycled storm water in the cooling towers for make-up water, and also for landscaping.” (Gaia)

**Response 12-7:** The project’s potential impacts on CSO events have been conservatively assessed in Chapter 12, “Infrastructure” of the Final SEIS, and it was found that the volume and frequency of such events would be reduced as compared with the future without the Proposed Actions. The measures to be employed by the project, more fully described in Chapter 12, “Infrastructure,” include stormwater separation and/or detention and the upgrade of a First Avenue sewer pipe between East 38th and East 39th Streets. Therefore, no mitigation is necessary.

**Comment 12-8:** The Draft SEIS states that the total flow into the system is “anticipated to be less than or roughly equal to the total flows when Con Edison occupied the site.” This is irrelevant because the proper baseline does not include those past conditions. (Gaia)

**Response 12-8:** The analysis described in Chapter 12, “Infrastructure” has been further refined in the Final SEIS and the text revised to reflect that by diverting 32.2 cfs from the development on the 700 and 708 First Avenue parcels, the stormwater flow from the proposed development program into the combined sewer system would be 11.7 cfs, which is 3.8 cfs less than the stormwater flow from the site when vacant (the future condition without the Proposed Actions).

## CHAPTER 15: TRAFFIC AND PARKING

**Comment 15-1:** Massive buildings and excessive parking will bring many more people and a lot more traffic and congestion to our neighborhood. First Avenue traffic is already bumper-to-bumper for much of the day. (CB6-1) The project will exacerbate the traffic problems that are already on First Avenue. (Parker)

**Response 15-1:** The SEIS comprehensively analyzes the potential traffic impacts of the Proposed Actions, encompasses a study area of 88 intersections in Manhattan and the key intersections along First Avenue, identifies significant adverse traffic impacts and, where feasible, identifies mitigation measures.

**Comment 15-2:** There should be no more than one space per ten apartments to discourage traffic. (CB6-1)

CB6 agrees with the determination in Chapter 15, “Traffic and Parking,” that the proposed development would cause significant traffic congestion, but that the CB6 alternative would cause less traffic congestion. To reduce traffic, properties should be zoned C1-9 and parking limited to accessory spaces to 10 percent of the dwelling units. (CB6-1, CB6 Parking Memo)

Consistent with Article I Chapter 3 of the Zoning Resolution, and in light of growing information on global warming and the increasing cost of gasoline, as well as the desirability of limiting automobiles in order to provide a street environment in the neighborhood more friendly to pedestrians, the number of parking spaces to be allowed on the Con Ed properties should be carefully scrutinized. It seems likely that the 10 percent recommendation in the 197-a plan is excessive. (CB6 Parking Memo)

**Response 15-2:**

Chapter 24, “Alternatives” of the SEIS evaluates the potential traffic impacts of the CB6 Alternative, in which parking is limited to 10 percent of the dwelling units. The smaller number of intersections at which significant adverse impacts were identified for this alternative resulted from its lower density rather than its restriction on the number of parking spaces.

The proposed accessory and public parking for the proposed development program is intended to accommodate the parking demand from the proposed development program.

**Comment 15-3:**

With the job market in the CBD expected to grow, housing in all income categories is becoming scarcer. ERRRC’s proposal, at the expense of an appropriate income mix of housing (C1-9), creates a double whammy: it adds substantial numbers of additional cars to this already overburdened area, and forces members of the work force into longer and longer commutes. (CB6 Transp Cmte)

**Response 15-3:**

The volume of cars expected to be generated by the Proposed Actions is documented in the SEIS. Project residents would commute to jobs in the region just as current area residents do, and commuters to the proposed office space would also travel to the site, as do other office workers to other East Side workplaces. In addition, the SEIS analyzes an All-Residential Alternative and concludes that it would also result in significant adverse traffic impacts (see Chapter 24, “Alternatives,” for a more detailed discussion).

**Comment 15-4:**

The annual fall ten day meeting of the United Nations’ General Assembly, on First Avenue; and the essentially weekly spring, summer,

and fall block festivals on Saturdays, Sundays, and holidays on Second, Third, and Lexington Avenues, each make their own individual contributions to the chaos of car and pedestrian movement in this community. Nowhere have these been factored into ERRC's traffic and garage space proposals. (CB6 Transp Cmte)

**Response 15-4:** Typical procedures used to control traffic for special events at the UN are described in Chapter 15, "Traffic and Parking" of the SEIS, but neither they nor block festivals represent typical daily conditions and are therefore not analyzed under CEQR.

**Comment 15-5:** To estimate the future traffic impacts of the proposed development, the Draft SEIS uses travel behavior data from the Year 2000 US Census, specifically from a series of census tracts located between Third Avenue and the East River, thereby implying that the people living and working in these census tracts are representative of the people that are expected to live and work in the proposed First Avenue Properties development. This assumption is significantly flawed for several reasons:

1) The household income of the persons living in the census tracts used as representative areas are substantially lower than the incomes expected in the future new buildings. Between Third and First Avenues the average household incomes are \$66,000 to \$68,000. These include households living in older low-rise walk-up buildings along Second Avenue. These incomes and associated travel behavior are not representative of the persons expected to live in the new luxury towers.

2) Car ownership in the blocks between Third and First Avenues is substantially lower than for the block east of First Avenue. West of First Avenue the average car ownership per household is 0.17 to 0.21, whereas east of First Avenue it is 0.33. Most buildings in the area used as representative don't have any accessory parking (Tudor City, Beekman Place, walk-up apartments along Second Avenue) whereas the proposed project is expected to have a total parking supply ratio equivalent to 0.37 spaces per apartment unit.

3) The persons living within 2 to 3 blocks from Grand Central Terminal and the subway line will travel less by auto than people living 4 to 5 blocks away. The census statistics show this very clearly: west of First Avenue the percentage of residents commuting to work by auto is 6.6 percent to 8.9 percent, whereas east of First Avenue for Tract 86 this percentage is 15.1 percent (based on journey-to-work statistics for the three AM peak hours. For the 7:30 to 8:30 AM peak hour, the auto split is 7.3 percent to 9.0 percent west of First Avenue and 19.9 percent east of First Avenue). The Draft SEIS assumes that only 10 percent of the future residents would commute by car.

4) Similarly, for persons employed in the census tracts used as representative areas: for persons working in the census tracts west of First Avenue the auto split is 12.9 percent to 16.7 percent, whereas east of First Avenue the auto split is 24.1 percent. The Draft SEIS assumes an auto split of 13 percent.

Thus, the Draft SEIS underestimates the number of trips generated by auto to a substantial degree. The amount of vehicular traffic generated by the proposed development is about 50 percent higher than what the Draft SEIS states. This is a fatal flaw. The underestimation of vehicular trips is most significant for the workers commuting into the project, i.e., for the office workers. This introduces an additional bias for the Applicant's preferred alternative against the CB6 alternative. (BFJ-1)

**Response 15-5:**

The commentator appears to advocate relying solely on Tract 86 for the purpose of estimating the project's auto share. As discussed below, Tract 86, in combination with other relevant tracts was included in the assessment, but it was not appropriate to rely on it as the only data source. The travel demand estimates used in the impact studies are reasonable, and conform with the guidance of the CEQR Technical Manual as well as procedures typically applied in assessing development projects in New York City. It is not correct to assert that the Draft SEIS underestimated the project's trips to a substantial degree, or that these estimates introduced a bias against the CB6 alternative.

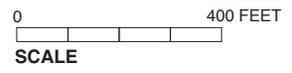
The analysis of the project's travel demand considered appropriate census data relevant to the project development parcels. Figure 29-1 shows the Census Tracts reviewed in forecasting the project's travel demand. Census information on peak period travel to work (both for area residents traveling to their external work place and areas workers traveling into the study area from their residence) is available at the tract level as well as the block group level, which comprises the geographic subgroups that make up a census tract. In assessing the auto share to be assumed for estimating project trips, both of these levels of data were reviewed to determine reasonable and appropriate assumptions.

With respect to residential use, consistent with the GEIS, Tracts 86, 88 and 78 were considered, reflecting the two tracts that contain the project's development sites, as well as the tract directly adjacent to the 685 and 616 First Avenue parcels. These tracts yielded an overall automobile share of 10 percent for residential-based journey-to-work from the study area. In preparing the travel forecasts, a comparison of census tract level and block group level data was undertaken to see if there was a bias introduced by using aggregate tracts, as is typically done under CEQR, as opposed to the block group data most specific to the immediate project area. As shown in Table 29-1, the use of the 10

1.3.08



-  *Development Parcels*
-  *Census Tract Boundary*
-  *Block Group Boundary*
-  *Block Group Number*



percent auto share utilizing tract-level data (Tracts 86, 88 and 78) resulted in a higher auto percentage than the eight percent derived focusing solely on the most relevant block group data for the areas encompassing the eastern ERRRC sites and immediately adjacent to the development parcels. Therefore, in preparing the impact studies the Tract-level data were appropriately applied to estimate the auto share for the project residents.

**Table 29-1  
Comparison of Census Data for the AM and PM Residential  
Modal Share**

| <b>Factor</b>      | <b>2000 Census<br/>Tracts 78, 86, and 88</b> | <b>2000 Census<br/>Block Groups 78.01,<br/>86.04, and 88.02</b> |
|--------------------|--|---|
| Modal Distribution |  |   |
| Auto               | 10%  | 8%  |
| Taxi               | 9%   | 9%  |
| Subway             | 20%  | 20%   |
| Bus                | 11%  | 12%   |
| Commuter Rail      | 2%   | 3%  |
| Walk Only          | 48%  | 48%   |
| Vehicle Occupancy  | 1.2  | 1.1   |

Moreover, the notion that consideration of the higher income and locational characteristics of project area residences east of First Avenue would result in a higher auto share than is assumed in the Draft SEIS is not borne out by the census data. Looking at the block group data most applicable to the study area (Tract 86, block group 4) containing residences between 34th and 42nd Streets, east of First Avenue—blocks encompassing the eastern ERRRC sites, with the highest income levels within Tract 86, in high rise residential development, all east of First Avenue—the auto share was 10.8 percent, similar to the rate applied in the impact studies. Consequently having relied solely on the block group level data east of First Avenue, even with its very high income, would not yield a notably higher auto share or greater traffic estimates than assumed in the Draft SEIS.

As for vehicle ownership, it is only one factor that influences the mode of travel during peak hours. This is particularly true in Manhattan where many residents use their private automobiles primarily for discretionary weekend trips rather than routine weekday journey to work. For example, Census Tract 86, Block Group 4, which contains the sites of 616, 700, and 708 First Avenue, has an average household automobile ownership of 28 percent, but only 10.8 percent of its residents commute to work by automobile.

Regarding the overall tract highlighted by the comment, (Tract 86), it includes a geographic area extending a good distance further north than the project area, going up to 54th Street, and introduces tracts from the Sutton Place area that have different characteristics than the tracts residents east of First Avenue between 34th and 42nd streets. Notably, approximately half of Tract 86 residents live in Block Groups 1 and 2, which is the area north of 51st Street and less representative of the locational characteristics of the development sites. Block Groups 1 and 2 have an automobile share of 19.2 and 22.7 percent, respectively, as compared with 10.8 percent for Block Group 4, which contains the project's development sites. To have used solely data from Tract 86 would skew the auto estimates to reflect the travel characteristics of residents of Block Groups 1 and 2 rather than residents of the block groups that include the project site. Moreover, it would wrongly exclude the specific data from the tract representative of the 685 First Avenue, parcel on the west side of First Avenue.

With respect to the forecast of auto share for workers traveling to the proposed office building at 708 First Avenue, aggregate data for the three Tracts was again applied, As described above, Tract 86 lies east of First Avenue from East 33rd Street to East 54th Street. The major employers in Tract 86 are NYU Hospital, its affiliated medical offices, and the United Nations, institutions which differ from typical office use. By incorporating Tracts 78 and 88, which contain a number of office buildings, the estimates are better able to reflect the use patterns expected at an office development on the project site. Therefore, the travel demand analysis considers the composite modal split of Tracts 78, 86, and 88. In any case, block group 4, containing the 708 First Avenue parcel, shows a peak period auto share of 9.2 percent, notably lower than the 13 percent assumed for the project. Therefore, it is not correct to assert that the estimated office auto share was understated.

**Comment 15-6:**

5,600 spaces are reported within a five-minute walk of the site. These are believed to be 70 to 80 percent utilized. This leaves approximately 1,350 spaces available. The existing inventory of spaces needs to be confirmed and the numbers of spaces used for accessory (or monthly residential with owner living nearby) parking and for transient parking need to be identified. It would also be useful to know which spaces were originally intended for accessory parking and are now used for transient parking. (CB6 Parking Memo)

The demand for spaces of between 1,350 and 1,550 spaces is overstated because:

- 39th and 40th Streets should be remapped and removed from the lot area of the site. This would reduce the zoning floor area of the development and, therefore, reduce the demand for parking.
- The other sites that have been rezoned east of First Avenue between 34th and 42nd Streets have been limited to approximately 10.5 FAR, not 12.0 FAR. Such a lesser density would reduce the demand for parking.
- The occupants of affordable apartments are likely to own fewer cars than the occupants of market rate apartments. Inclusion of affordable dwelling units should reduce the demand for parking. (CB6 Parking Memo)

Even using the developer's numbers, the proposed demand is only a few hundred spaces more than the available nearby spaces. This suggests that the recommendation that parking be limited to 10 percent of the dwelling units is more than adequate. (CB6 Parking Memo)

**Response 15-6:**

The SEIS reports, in Table 15-2 and on Page 15-12, that there are approximately 6,066 off-street parking spaces within just over a five-minute walk of the project sites, and that these spaces reach a maximum occupancy level of 85 percent at midday. This means there are about 910 available spaces in these parking lots and garages under existing conditions. The parking occupancy of these spaces is expected to increase to about 91 percent under future No Build conditions, leaving about 546 spaces in 2014 without the construction of the proposed development, as opposed to the number of spaces cited in the comment above. This inventory was approved by NYCDOT and DCP and follows *CEQR Technical Manual* procedures and does not need to be re-counted. The parking demand expected from the proposed development program reasonably reflects the volume of vehicle traffic that is expected to be generated in and out of the various buildings on the site. The proposed parking demand—a maximum of 1,466 spaces—could not be satisfied by the approximately 546 paces that would be available for use in 2014 within existing parking facilities.

**Comment 15-7:**

The demand analysis does not contemplate the development including affordable housing and, therefore, does not examine how the car ownership rate might differ for affordable units as opposed to market rate units. This information needs to be provided. (CB6 Parking Memo)

**Response 15-7:**

The SEIS travel demand forecast is based on the number of dwelling units and relies on average data for the study area and typical urban travel patterns.

**Comment 15-8:**

If residential uses were substituted for the office use there would be approximately 1,200 more apartments, which, at 25 percent, would add

300 spaces to the residential demand for a total of 1,550 spaces. In this case there would be no reduction for combined use. (CB6 Parking Memo)

**Response 15-8:** Comment noted. The mixed-use nature of the proposed development program allows for a degree of shared parking. The overall need for parking would be greater if the development program was single use.

**Comment 15-9:** The proposition by the developer that the new development should provide parking to fully satisfy its projected demand is inconsistent with both opportunity and policy. The density and public transit of east midtown are an opportunity to encourage walking and transit use without inconvenience to those who live, work, or visit there. The estimates of demand should consider the convenience of not having a car. Building more parking spaces than the necessary minimum risks the extra spaces being used for transient parking (legally or illegally) and thereby, contrary to policy, encouraging additional and unnecessary traffic. (CB6 Parking Memo)

**Response 15-9:** The proposed parking is designed to accommodate the proposed development program's demand. There are only limited opportunities for project-generated trips to use other facilities in the area, which would become fully utilized if used by even a fraction of vehicles destined to the proposed development. The travel demand analysis reflects a high use of non-auto modes, as is characteristic of the study area. The amount of parking proposed to be built as part of the proposed development program would not be excessive for its needs (94 percent occupancy has been determined within the SEIS analyses) so it should not encourage additional transient parking.

**Comment 15-10:** Transient parking spaces in an office/commercial building have turnover. One spot means many cars during the business day, exactly the times when cars should be actively discouraged from coming to the CBD. The Administration's Congestion Mitigation plan, presented in PlaNY 2030, aims at doing that. C5-2/C4-6 moves in exactly the opposite direction. (CB6 Transp Cmte)

**Response 15-10:** The parking analysis reflects typical turnover within the business day. Most parking is generated by employees parking on-site and some additional, but lesser amount, may be ascribed to visitors to the building.

**Comment 15-11:** The proposed development is projected to have a total of 1,554 new parking spaces (945 public parking spaces and 609 accessory spaces). These garages will be operated as commercial garages open to anyone

ready to pay the monthly or hourly fees. And they will be operated as attendant parking spaces where generally more cars can be fitted in the garage as calculated based on floor area. During the night all of the spaces will be available to the residents, thus representing an effective ratio of 0.37 spaces per dwelling unit. If we assume that 700 of the spaces become available to the office tenants during the day, this will represent a parking ratio of 0.46 spaces per 1000 sf of office space. These ratios are excessive for Manhattan, contrary to the City's sustainability goals. Given such high ratios as well as the project location adjacent to the FDR Drive, the automobile usage for this project will be significantly higher than for the rest of Manhattan. The Census data show a clear correlation between auto ownership and auto modal split. (BFJ-1)

**Response 15-11:** The SEIS details the volume of arrivals and departures and parking accumulation, by hour of the day. The project accommodates its parking needs without infringing on other parking facilities in the area that are currently 85 percent utilized overall today, and are projected to increase to over 90 percent in the future. Auto usage developed for the SEIS reflects typical modal split characteristics within the study area.

**Comment 15-12:** CB6 opposes exacerbating the existing traffic congestion on the east side, the inevitable result of the project's density. (CB6-Rubin)

**Response 15-12:** Comment noted.

**Comment 15-13:** The ERRC proposal calls for mixed-use zoning, including residential, retail, and office uses. However, the SEIS notes that commercial zoning with office uses typically brings more cars to an area than other uses. As we saw during the opening session of the UN General Assembly in late September and even during this holiday period with regular "gridlock alerts," our area already bears the burden of tremendous traffic congestion and any increase virtually paralyzes our neighborhood. The residents and businesses cannot bear the increase in vehicular traffic, noise, and air pollution that the high density ERRC development would permanently bring to our already crowded streets. (Duane)

**Response 15-13:** The SEIS documents projected conditions throughout the study area for the future without and with the proposed mixed-use development, detailing where significant adverse traffic impacts are expected and the mitigation measures needed to address those impacts. These analyses were conducted for typical weekday and Saturday conditions, not for the special event condition days during the opening session of the UN General Assembly, which are not typical day conditions; security

measures involving traffic controls employed on those special event days, however, are described in the SEIS.

**Comment 15-14:** The Draft SEIS shows that much of the transportation impacts generated by this project are attributable to the office building on 41st Street. This building is expected to contribute substantially to traffic congestion on weekday mornings, as well as to the pedestrian congestion in and around Grand Central Station. (Garodnick) Traffic on First Avenue is terrible today and has not yet been resolved by NYCDOT. The Solow development will make traffic horrific. (SAC-Bergin)

**Response 15-14:** The SEIS fully describes existing traffic conditions on First Avenue, as well as the projected significant adverse impacts that the proposed development would have on traffic conditions. The office use is a larger trip generator than the residential space. Both, together with trips generated by community facility and retail space, would contribute to significant traffic and pedestrian impacts identified in the SEIS. An All-Residential Alternative is analyzed in Chapter 24, “Alternatives”, and it was also projected to have a substantial number of significant adverse traffic impacts and a similar number of unmitigated impacts. In the Final SEIS, at the 88 study locations in Manhattan, the Proposed Actions would have significant impacts at 55 intersections in the peak AM hour, 35 intersections in the weekday midday peak hour, 57 intersections in the PM peak hour, and 22 intersections in the Saturday midday peak hour. The All-Residential Alternative would have 53, 34, 55, and 23 significant impacts in the AM, weekday midday, PM, and Saturday midday peak hours, respectively. Of the significantly impacted locations, the Proposed Actions would have 17, 9, 14, and 4 unmitigated significant impacts compared to 15, 9, 14, and 6 unmitigated significant impacts under the All-Residential Alternative in the AM, weekday midday, PM, and Saturday midday peak hours, respectively.

**Comment 15-15:** The expected vehicle addition to the arteries flowing into the 59th Street Bridge will be a catastrophe. This will be amplified by the implementation in the near future of BRT on First and Second Avenues, with the loss of one traffic lane, inexplicably not considered in the Draft SEIS. (SAC-Ladin)

Despite requests from the area’s elected officials and the community board, the Draft SEIS did not incorporate the city’s plans to implement Bus Rapid Transit on First and Second Avenue in the next few years into its traffic and public transportation analyses. As currently planned, Bus Rapid Transit will shift at least one additional lane of traffic from

general automobile use to a bus lane during peak rush hour congestion periods, and will require changes to the timing of traffic signals. As a result, the implementation of Bus Rapid Transit will leave First and Second Avenue with less road capacity than the amount that was studied in the Draft SEIS, and will clearly affect the traffic patterns and mitigation options in the area; these impacts must be fully studied. (Krueger)

**Response 15-15:** Project-generated traffic expected to use the streets leading to and from the 59th Street Bridge, and its corresponding impacts, are addressed in the SEIS. The BRT proposal for First and Second Avenues is still in the early planning stage; no design has been developed as yet, nor have signalization plans, BRT and bus stop locations, the allowability of right turns from the BRT/bus lanes, the allowability of parking or pickups/dropoffs, frequency of service, or other factors that would be needed to quantitatively predict the impacts of the proposed development program under a condition in which BRT has been implemented. The SEIS, in Chapter 15 section J, “Bus Rapid Transit for First and Second Avenues,” notes that, “With BRT on First and Second Avenues, it is expected that No Build traffic levels of service identified above in this SEIS would deteriorate. Depending upon the ultimate design of the BRT service, there could be an increased number of significant adverse impact locations under the Build condition, and some of the Proposed Actions’ significant adverse traffic impacts could require additional mitigation.”

**Comment 15-16:** The traffic from the residential development, the planned Public School, retail, and garages will increase car and truck traffic, with both 36th and 38th Streets becoming more congested and requiring traffic lights. As a result, the retail, below-grade, and garage spaces should be reduced and one residential building on the 616 First Avenue site should be eliminated. (Wyckoff)

**Response 15-16:** The detailed analyses conducted in the SEIS identified a need for new traffic signals at the FDR Drive service road’s intersections with 36th and 38th Streets, which would not only serve to mitigate significant adverse traffic impacts at these locations but would also “calm” traffic on the service road. The traffic signals would permit cross-street traffic on 36th and 38th Streets to turn onto the service road at a signalized intersection rather than await gaps in the free-flow service road traffic stream at a stop sign as is the case today.

**Comment 15-17:** The addition of more than 4,100 new apartments, 7,000 commercial workers, and 1,550 parking spaces, as the ERRC proposes, would have

devastating effects on the area's already overburdened streets, sidewalks, and public transportation infrastructure. Local avenues and streets, the Lexington Avenue subway line, and the cross-town busses on both 34th and 42nd Streets are already at or above capacity. The Draft SEIS found that 81 of the 86 intersections studied are already at levels of service D or worse. As expected, the Draft SEIS reveals that the proposed project would have significant adverse impacts on the area's traffic congestion and public transportation routes and discloses that many of these impacts are unmitigatable. (Krueger, SAC-Ladin)

**Response 15-17:** The SEIS identifies and evaluates traffic capacity improvements that would be able to mitigate the vast majority – but not all—of the significant adverse traffic impacts cited above. The SEIS also identifies improvements that would be able to mitigate significant adverse subway and bus impacts.

**Comment 15-18:** The City is on the verge of defining a municipal policy to reduce vehicular traffic, and a private real estate development is being proposed which seeks to maximize parking, in a core of the congestion zone. Parking is a key determinant of the decision to drive. Transient parking attracts multiple users during the business day and that is when driving to the central business district should be most actively discouraged. (CB6-Sepersky)

**Response 15-18:** This proposed development is one of many proposed projects and recently approved projects and rezonings in Midtown Manhattan. This project's proposed parking supply aims at accommodating its own parking needs and is not expected to either attract or accommodate transient parkers, who can be more readily accommodated at existing parking facilities, which are located further to the west and are closer to their final trip destination.

**Comment 15-19:** The developer should reduce the allowable public parking spaces in the development so as not to further exacerbate our already severely impacted traffic flow. (CB6-Buchwald)

1,500 is a lot of cars that don't belong. (TBA)

Why should we allow such an enormous number of increased parking spaces as this developer has requested in addition to what he would be entitled to normally? (Krueger)

The number of public and accessory parking spaces should be reduced to a level that is consistent with the City's traffic and environmental goals, and will diminish anticipated traffic impacts. (Stringer)

**Response 15-19:** The amount of parking proposed is intended to accommodate project-generated trips heading to this development and would discourage vehicular traffic from circulating farther afield on City streets to other parking facilities. It is not the parking supply that generates the volume of traffic, but the nature of each of the land uses comprising the overall proposed development program. Each land use being proposed generates a traffic demand and, a parking demand, which would be accommodated by the proposed parking supply.

**Comment 15-20:** The ERRC's proposal to include 1,554 parking spots (945 public spaces and 609 accessory spaces) in the development is likely to further exacerbate traffic congestion. It is also contrary to the city's longstanding policy on parking in Midtown Manhattan, the environmental goals of the Mayor's PlaNYC, and the new congestion-pricing program currently being considered. Article 1, Chapter 3 of the New York City Zoning Resolution strictly limits parking in Midtown Manhattan in order to improve the quality of the air. Exceptions to this policy are only to be made in unique circumstances by DCP. Residents who will reside in the buildings on the First Avenue properties will live within easy walking distance of the Midtown CBD and a comprehensive existing public transportation system; their transportation options are likely to be further improved in the future with the implementation of Bus Rapid Transit and the construction of the Second Avenue Subway. In such an environment, walking and public transit use should be strongly encouraged. The provision of more parking spaces than is absolutely necessary encourages additional and unnecessary traffic. Therefore, the city should reject the developer's application for a Special Permit for more parking spaces than would otherwise be permitted under the Zoning Resolution. (Krueger)

The provision of so many parking spaces in Midtown is clearly in opposition to the Mayor's goal for congestion pricing. (SAC-Ladin)

The City has made an admirable and impressive effort to promote transit-oriented development and discourage automobile usage in Manhattan. It would frustrate these goals to permit such large new public parking garages in Manhattan, which promote greater dependence on the automobile. (Stringer)

**Response 15-20:** The amount of parking proposed is intended to accommodate the needs of the proposed development and discourage any excessive circulation of motorists seeking other parking spaces in the neighborhood. The amount of parking being provided is not the generator of traffic destined to the proposed development. The volume of traffic generated is based on the trip generating characteristics of the various land use components

of the project. Residential, office, retail and community facility space each generate a specific number of daily trips based on standard CEQR and industry procedures, each use has its own temporal distribution (i.e., the percentages of trips that occur by hour of the day), modal split, and average vehicle occupancies. According to standard CEQR traffic impact analysis procedures, the amount of parking provided is not a factor in this determination. By providing the parking needed by project-generated trips and thus eliminating the need for new traffic to circulate throughout the area to find available close-in parking, potential congestion can be minimized. As noted in the comment, there are significant resources available to accommodate tripmaking by subway and bus due to the proximity of the project sites to north-south and east-west bus routes, to subway stations, and to Grand Central Terminal, and the predominant share of trips destined for the proposed development program is expected to be by public transit. Once the proposed Second Avenue Subway is built and fully operational, and should the First and Second Avenue BRT systems be built, it will increase the range of transit options available to project trips as well as to the community as a whole, primarily relieving congestion on existing subway and bus routes. Already today, even without these planned new transit systems, 80 percent of area residents and 85 percent of area workers take mass transit or walk to go to work and return home. The percentage using cars for their travel needs is relatively modest. Moreover, neither PlaNYC nor the current proposal for congestion pricing advocate reduction or restriction of parking supply as a congestion reduction measure.

**Comment 15-21:** The findings of the DEIS traffic analysis are disturbing. According to the analysis, the project would have significant adverse impacts in the morning on 64 of the 88 intersections studied. It would have significant adverse impacts on 57 intersections in the evening. Some who have reviewed the EIS have suggested that these figures underestimate the traffic that the project will generate. It's worth noting that the EIS concludes that nothing at all can be done about the adverse impact on about a dozen of the intersections. (Kavanagh)

**Response 15-21:** The SEIS does identify that many intersections in the area would be significantly impacted, but that the vast majority of such impacts would be mitigatable via standard traffic capacity improvements such as the installation of new traffic signals, lane-restriping, signal phasing and timing modifications, and more restrictive on-street parking regulations.

**Comment 15-22:** There are only three curb cuts designated for this Solow project. There are "no public motor vehicles" on Solow's surface space. The plan

proposes to tunnel traffic beneath its seven buildings. These vehicles are necessary to deal with this enormous project and will lead to humongous increases in traffic snarls. Traffic will barely move. (CB6-Curtis)

**Response 15-22:** The three curb cuts leading to and from parking below the development would be sufficient to accommodate the ingress and egress of vehicle traffic. As is customary in parking garage design, cars entering the site to an underground garage use pathways or ramps that are obviously under the site; this design, which is referred to in the comment as a “tunnel” is the way underground garages operate.

**Comment 15-23:** There’s a tremendous problem with traffic. The EIS didn’t address the day-to-day situation. Dozens of times a week the police has training exercises to get to Manhattan Place. These police cars double park on the sidewalks all along First Avenue, 36th Street, and 35th Street. In addition, this is a bus staging area. There are over 20 coach buses parked along First Avenue, 36th Street, and 37th Street. In addition, the Department of Environmental Protection parked approximately 15 of their trucks and vans along the street. The reason is they don’t have sufficient parking garages. (Wyckoff)

**Response 15-23:** The SEIS does address typical daily traffic conditions based on traffic counts and field observations conducted on several days. These observations also note, and the subsequent analyses take into account, any vehicle parking or staging on streets in the area that affect traffic flow conditions.

**Comment 15-24:** The developer wants to add 1,100 garage spaces. It’s unclear how these 1,100 cars will get there, or even 100 cars. 40th Street, which they would have to be turning left on, is a one-lane street, and the traffic doesn’t move. There will be a backlog when people are waiting to make this left turn. All the cross streets between 35th and at least 40th are totally congested. The traffic does not move. (Gleicher)

**Response 15-24:** As part of the SEIS’ traffic analyses, all traffic generated by the proposed development was routed to available streets and the FDR Drive depending on their trip origins and garage entrance locations. These traffic assignments were reviewed by NYCDOT and DCP and accepted by those agencies as reasonable projections. Projected conditions on the streets were noted and needed mitigation measures for identified significant adverse impacts were documented in the SEIS.

**Comment 15-25:** In order to meet the criteria for all the parking garages, the Applicant must prove that the garages will not unduly inhibit pedestrian flow nor

create or contribute to vehicular congestion. The Applicant studied the garages as a whole so no delineation between the garages was analyzed in this application. (Stringer)

**Response 15-25:** The SEIS traffic analyses evaluated vehicular access to, and egress from, each proposed garage on the adjacent street network in combination with pedestrian circulation patterns. The access/exit driveways are located along cross-town streets and the FDR Drive Service road, where potential conflicts with pedestrians would be minimized. The garages would not contribute to vehicular congestion because the proposed land uses, not the garages themselves, would generate vehicle trips. The traffic generated by the proposed land uses is analyzed in Chapter 15, “Traffic and Parking” of the SEIS. Each garage was studied individually; the SEIS presents the aggregated parking accumulations.

**Comment 15-26:** The Draft SEIS calculations include assumptions about the impact the garages would have on the streets. Specifically, it assumed that the garage would be mainly utilized by demand generated by the proposed development (95 percent on the northern parcel and 100 percent on the southern parcel), rather than daily parkers, who tend to create more automobile trips. (Stringer)

**Response 15-26:** The Draft SEIS did assume that the proposed garages would be utilized by the proposed development. The proposed public parking garages would be utilized primarily by project office trips, which tend to be all-day parkers, while the accessory parking garages would primarily be utilized by building residents, many of whom park all day as well, while others use their cars for daytime trips and park overnight. All trips made by trips generated to and from the project’s garages are fully accounted for in the SEIS traffic analyses.

**Comment 15-27:** The Draft SEIS studied the impact of a garage that was operated essentially as an accessory garage – which indicates that only an accessory garage permit should be granted. The Applicant indicated a public parking garage was necessary because accessory parking garages could not be utilized by visitors to the residential development. However, both section ZR § 12-10 and ZR § 13-561 clearly indicate that accessory parking garages may be utilized by “occupants, visitors, customers, or employees” of the proposed use, which in this case would include residential uses and their visitors. (Stringer)

**Response 15-27:** The special permit for accessory parking garages pursuant to Zoning Resolution Section 13-561 is available for accessory garages in buildings with all types of uses: residential, commercial, retail, hotel,

and community facility. The language of Zoning Resolution Section 13-561 is therefore general. However, use of accessory parking by the visitors to a building is not permitted for all uses; it is only permitted for hospital and hotel uses. For residential buildings, Zoning Resolution Section 13-12 requires that accessory parking be limited to use by residents. For office buildings, Zoning Resolution Section 13-133 requires that accessory parking be limited to use by office tenants and employees. Section 13-561 permits a waiver of the 200-space size limitation for an accessory garage, but it does not change the basic requirements of Section 13-10 as to whom is permitted to use an accessory garage.

Any ambiguity between the language of Section 13-561 and Sections 13-12 and 13-133 can be resolved by reference to the legislative history of Article I, Chapter 3 of the Zoning Resolution, the Comprehensive Off-Street Parking Regulations, which makes clear that these regulations were not intended to permit visitors in accessory garages. The CPC report in connection with their adoption (N 810276 ZRM, March 16, 1982, Cal. No. 3) states the following: “Under the existing text accessory parking may be used primarily by the occupants of the building. It may also be used by non-occupants. The proposed text restricts the use of accessory parking to the occupants of the building with two exceptions: required parking for assisted housing and hotel parking.” Thus, the report indicates that the use of accessory spaces by visitors was restricted by the 1982 regulations.

As described in Chapter 15, “Traffic and Parking of the SEIS, the projected demand for public parking in the proposed development program includes demand from users who would not be permitted to park in the accessory garage, such as visitors to the retail uses, the office building, and the community facility—users who would need to be accommodated in the public garage. The public parking garage will thus allow for greater flexibility in accommodating this parking demand.

**Comment 15-28:**

The application does not meet the required findings related to congestion. The proposed development would create traffic impacts on 11 intersections that are unmitigatable and 8 intersections that could only be partially mitigated. Therefore the three garages proposed should not be approved as they will cause or contribute to congestion and therefore do not meet findings ZR §13-561(c) for the one accessory parking garages or ZR § 74-52(b) for the two public parking garages. (Stringer)

**Response 15-28:** It is incorrect to assert that the garages would cause, or contribute to, congestion. The traffic associated with the proposed development is a function of its scale and mix of uses, and not a function of the garages. The proposed parking is intended to accommodate the parking demand generated by the project's uses.

Both Zoning Resolution Sections 13-561(c) and 74-52(b) require, for accessory and for public parking garages, respectively, that the parking garage "will not create or contribute to serious traffic congestion and will not unduly inhibit surface traffic and pedestrian flow." The project's vehicle trips would not be generated by the garages themselves.

## **CHAPTER 16: TRANSIT AND PEDESTRIANS**

**Comment 16-1:** Widening the crosswalk at 42nd Street and Lexington by a foot, and any other similarly congested crosswalk, is to be praised. Also to be considered is the expected growth in pedestrian traffic along 42nd Street, which will come with the completion of the Long Island Railroad's access to Grand Central Terminal in about five years, and the 42nd and 34th Street stations of the full build Second Avenue subway. (CB6 Transp Cmte)

**Response 16-1:** The SEIS accounts for the transit and pedestrian activity that would be generated by completion of Long Island Rail Road East Side Access in the 2014 no build condition. The Second Avenue Subway project would complete after the 2014 build year for the Proposed Actions.

**Comment 16-2:** The proposed development is projected to significantly adversely affect the M16, M34, M42 bus lines, an entrance to the subway at Grand Central Station, and pedestrian circulation throughout the area. (Krueger)

**Response 16-2:** Chapter 16, "Transit and Pedestrians," analyzes the potential for significant adverse impacts with respect to bus lines, subway access, and pedestrian circulation. Chapter 23, "Mitigation," describes measures that would mitigate the identified significant adverse impacts described in the comment.

**Comment 16-3:** During rush hour, the Nos. 6 and 7 trains and the M-34, M-42, and M104 busses are already over capacity and there is no additional room for more people. If there was possible mitigation, the Transit Authority would have corrected our present severely overcrowded conditions. (Gleicher)

**Response 16-3:** Chapter 16, “Transit and Pedestrians,” details the bus-line haul analysis performed for the SEIS; that analysis considered all of the busses identified in the comment, and found that the Proposed Actions would have significant adverse impacts on the M-16/M-34 and M42 lines. Chapter 23, “Mitigation,” identifies measures that NYCT could employ to mitigate the identified significant adverse impacts. With respect to the Nos. 6 and 7 trains, please see the response to Comment 16-4.

**Comment 16-4:** ERRC’s Draft SEIS omits a study of how the proposed development would impact train capacity and movement on the Lexington Avenue subway lines. The “leave loads” on the Lexington Avenue subway southbound express service already far exceed New York City Transit’s guidelines, leaving passengers with far less than the recommended space of three square feet per person. Leave loads at Grand Central are the highest at any point on the Lexington Avenue subway, according to MTA data. Such excessive leave loads have an impact on the subway’s ability to operate consistently and on time. Today, Lexington Avenue subway dwell times at Grand Central stop on average 50-60 seconds, far exceeding the MTA’s guidelines of 30-45 second dwell times necessary to maintain the planned 30 trains per peak hour. Anyone commuting from points north of 42nd Street has experienced during the peak rush trains operating at slow speeds or stopping just before entering Grand Central. This phenomenon will become the norm if even a fraction of the residents and workers of the planned development commute to points south of 42nd Street. The Final SEIS must analyze the system-wide impacts of the proposed rezoning on the Lexington Avenue subway line and determine what, if anything, can be done to mitigate the potentially disastrous consequences. (Krueger)

**Response 16-4:** The *CEQR Technical Manual* requires an analysis of subway line-haul if a proposed action would generate more than 5 new subway riders per car on the routes that serve the project site. Based on reasonable projections of trip generation via subway, the Proposed Actions would not trip this threshold, and therefore, do not have the potential to result in significant adverse subway line-haul impacts requiring analysis.

## CHAPTER 17: AIR QUALITY

**Comment 17-1:** Since the proposed buildings are so close to the FDR Drive, the buildings would experience an elevated exposure to carbon monoxide (CO) and other pollutants, which might need to be mitigated. According to CEQR, since “approximately 80 to 90 percent of CO emissions are from motor vehicles, and elevated concentrations of CO are usually limited to locations near congested intersections of and along heavily

traveled and congested roadways, CO concentration must be predicated on a localized microscale basis.” (CB6 Safety Cmte)

**Response 17-1:** The DEIS did examine the potential effects of FDR Drive traffic at receptors near the Proposed Actions. Site 5, at the FDR Drive and 39th Street, was specifically chosen for this purpose. Receptors were placed at sidewalk locations that are closer to the FDR Drive than the proposed buildings, so the predicted concentrations are a conservative estimate of potential pollutant concentration levels at the proposed buildings. The analysis concluded that future predicted concentrations near the FDR Drive with the Proposed Actions would be well below the national ambient air quality standard (NAAQS) for CO.

**Comment 17-2:** The Draft SEIS’s Air Quality discussion does not include a microscale study at 38th Street between First Avenue and FDR Drive. One of the three entrances to the garage that will service the residential buildings is to be located in the middle of this block. Since it is one of three entrances, it is reasonable to expect that about 300 cars would use it. In contrast, there is one car parking entrance for the Horizon Condominium with a car space capacity of only 95 accessory parking. Accordingly, the entrance would potentially have an adverse impact on the air quality of the area that would be three times present conditions. (CB6 Safety Cmte)

**Response 17-2:** Microscale analyses are usually conducted at intersections rather than at mid-block locations since intersections would also experience pollutant emissions from vehicle idling. Therefore, the highest concentrations from on-street traffic would be experienced near intersections. The DEIS examined the potential air quality effects of the Proposed Actions at a number of intersection locations in the study area. These included locations in the study area where the highest levels of project-generated traffic, total Build condition traffic, and worst levels of service are expected, and, therefore, where the greatest air quality impacts and maximum changes in concentrations would be expected. The DEIS also examined the potential effects of the Proposed Actions’ underground parking garages at localized receptors at various mid-block locations, as well as on First Avenue, using conservative assumptions. The results clearly demonstrate that the Proposed Actions would not result in a significant adverse air quality impacts from mobile sources.

**Comment 17-3:** The Draft SEIS did no microscale study at 36th and 35th Streets between First Avenue and the FDR Drive where the potential adverse impact of air quality of the area could double. Each street would have

one parking entrance that will serve the 616 First Avenue buildings. (CB6 Safety Cmte)

**Response 17-3:** Chapter 17, “Air Quality” of the Draft SEIS did include a microscale analysis of the 35th Street location east of First Avenue, as part of the parking garage analysis. Receptors near each garage, including a potential mid-block garage entrance on 35th Street, were analyzed to assess the combined effect of garage and on-street emissions. As presented in the Draft SEIS, the results of the parking garage analysis determined that future concentrations of CO would be well below the NAAQS and CEQR *de minimis* criteria.

**Comment 17-4:** Table 17-11 in the Draft SEIS predicts total CO and PM<sub>10</sub> concentration at selected mobile-source analysis sites for the No Build and Build conditions, and the incremental from the No Build and Build conditions. These values are based on two travel demand factors taken from Table 15-7 and 15-8. These demand factors are based on US Bureau of the Census, 2000 using Tracts 78, 86, and 88. However, as pointed out in a traffic study conducted by BFJ Planning, Census Tracts 78, 86, and 88 are not indicative of the demographic of the EIS study area. Tracks 86.001, 86.002, 86.003, and 86.004 are best suited to represent the study area because:

- Tracts 78 and 88 have a much lower average income than Track 86.
- Tracts 78 and 88 are areas of older, low-rise walk-up building, most of which do not have garages.

The combination of lower incomes and buildings with few parking spaces makes clear that the residents of Tracts 78 and 88 are not likely to use their cars to commute. Tract 86 represents a demographic that is much more likely to use cars for commuting. Residents in the Draft SEIS study area are twice as likely to use their cars for commuting as residents in Tracts 78 and 88. Therefore, the amount of vehicular traffic generated by the proposed development is about 50 percent higher than what the Draft SEIS states. Since the Draft SEIS Travel Demand Factors are undervalued by about 50 percent, the values in Table 17-11 are also undervalued by 50 percent. Since these values are being question, a new study should be made using proper demographic areas as a basis for analysis (CB6 Safety Cmte)

**Response 17-4:** The travel demand methodology and assumptions were based on guidance provided in the *CEQR Technical Manual*, which is the City’s current method for assessing traffic impacts from a proposed action. These assumptions were reviewed with both the lead agency and the New York City Department of Transportation. See also the response to Comment 15-5.

## **First Avenue Properties Rezoning Final SEIS**

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**Comment 17-5:** A high-density development, with a FAR of 12, would increase traffic congestion, resulting in an unacceptable level of air and noise pollution. The inclusion of 39th and 40th Streets, in the FAR of 12 calculations, would exacerbate these problems. Therefore, the community's environment would be adversely affected by a high density FAR of 12, as proposed by the Draft SEIS. (CB6-Arcaro)

The proposed development plan for the First Avenue Properties, with its massive density, would add more pollutants to our city's air. (CB6-Arcaro)

**Response 17-5:** Chapter 17, "Air Quality" of the SEIS analyzes the potential for significant adverse air quality impacts resulting from the proposed development program's mobile and stationary (HVAC) sources. The analysis found that the proposed development program would not result in significant adverse air quality impacts. Chapter 18, "Noise" of the SEIS analyzes the potential for the proposed development program to result in significant adverse noise impacts. Based on that analysis, the SEIS concludes that the proposed development program would not result in any predicted exceedances of *CEQR Technical Manual* suggested incremental thresholds at noise receptor locations and that there would be no predicted significant adverse noise impacts from the proposed development program.

**Comment 17-6:** The values for "Pollutant Concentrations" in Chapter 17 are based on incorrect travel behavior statistics. In fact, a recent study by BFJ concluded that the Draft SEIS study underestimates the amount of vehicular traffic generated by the proposed development by about 50 percent. Therefore, since the Draft SEIS Travel Demand Factors are undervalued by about 50 percent, so are the values in Table 17-11 underestimated. The table underestimates the future pollutant concentrations and increments, due to the increased traffic caused by the development, by about 50 percent. This also applies to the Draft SEIS analysis for noise impacts. (CB6-Arcaro)

**Response 17-6:** As explained in the response to Comment 15-5, the travel demand estimate presented in the Draft SEIS is based on industry-standard data sources and is a reasonable estimate of anticipated trips.

**Comment 17-7:** On Pages 16 and 17, the Draft SEIS acknowledges that the outlet air from the garage's systems could contain "elevated level of pollutants due to emissions from vehicular exhaust" emissions in the garage. It goes on to state that these "emissions from the vents could potentially affect ambient pollutant concentrations at nearby locations." The Draft SEIS assumes 1 cubic foot per minute of fresh air per gross square foot

of garage area, which is too low for safe human breathing. The assumption should be 5 cubic foot per minute of fresh air. This will further increase the level of ambient pollutant concentrations at nearby locations. The Draft SEIS makes no mention of how this would be mitigated. (CB6 Safety Cmte)

**Response 17-7:** The sentence quoted in the comment is from an introductory section of the air quality analysis, describing the general potential issues and why they are examined in the SEIS; concentrations of air pollutants always have the potential to increase in places where emissions take place, which is why these sources are examined. The Draft SEIS concluded that no significant adverse impacts on air quality would occur, and therefore no mitigation is required.

The assumption regarding ventilation rates was not 1 cubic foot per minute (cfm) of fresh air, but rather 1 cfm per square foot of parking. This is a minimum guidance for ventilation, and the actual system, once designed, may operate at a higher ventilation rate. If a higher rate were used, the pollutants emitted in the garage would be mixed with more fresh air, resulting in lower concentrations, not higher ones.

## CHAPTER 18: NOISE

**Comment 18-1:** Chapter 15, Page 6 of the Draft SEIS indicates that “new traffic counts” of existing traffic volumes were conducted in June 2004 for weekday periods and in June 2006 and March 2007 for the Saturday midday periods using manual intersection counts and 24-hour Automatic Traffic Recorder (ATR) machine counters. This raw data is the basis for the values in Table 18-7 in the Draft SEIS. While the March 2007 counts for Saturday midday periods are close to representing existing conditions, the June 2004 counts for weekday periods are not, since those counts are three years old. Further, the values in Table 18-7 do not take into consideration “Background Growth Rates,” for traffic and parking analysis as recommended by CEQR. Therefore, the values in Table 18-7 are not a true example of the existing traffic volume conditions in the study. Since the values in Table 18-7 are used as a basis for the values in Table 17-6, the values in Table 17-6 are also questionable. (CB6 Safety Cmte)

**Response 18-1:** Traffic data that are three years old are acceptable under CEQR. Subsequent counts conducted in 2007 confirmed the validity of the 2004 counts—overall, traffic volumes were extremely flat during this three-year period. In addition, in forecasting traffic volumes based on 2004 counts, a growth factor was applied to the field data to reflect the elapsed time between the collection of the data and the future analysis

year. NYCDOT has reviewed and approved the Draft SEIS traffic analysis and data. The existing noise levels shown in Table 18-7 were obtained, as noted in the table, in November 2004, and were forecasted forward to the project's analysis year of 2014 for the purpose of assessing the impacts of the proposed development program, including noise impacts. Noise levels in the study area are primarily a function of traffic. However, a fairly substantial change in traffic volumes is necessary to achieve even a small change in noise levels. For example, a 25 percent increase in traffic volume (assuming no other changes) would produce less than a 1 dBA increase in noise levels (which is an imperceptible change in noise levels). The noise values shown in Table 18-7 show noise conditions in 2006, which were used as a baseline to predict future noise levels with and without the Proposed Actions; they were not relevant or used in the air quality analyses. Consequently, the comment that the values in Table 18-7 were the basis for the values in Table 17-6 (Maximum Simulated Existing 8-Hour Average CO Concentration in 2006) is incorrect. The values shown in Table 17-6 were calculated independently based upon traffic and meteorological conditions.

**Comment 18-2:** Chapter 18, Page 8 indicates that noise monitoring at 10 noise receptor sites was performed in November 2004, which is the basis for the dBA values in Table 18-7. These values do not take into account background growth rates for traffic and parking analysis as recommended by CEQR, which recommends a background growth rate for Manhattan of .5 percent per year. Therefore, the values in Table 18-7 cannot be considered accurate since the table is based on three-year-old data and did not take into account the background growth rate for Manhattan. The same flaw would apply for any values in tables that use Table 18-7 values as bases. (CB6 Safety Cmte)

**Response 18-2:** Data that are three years old are acceptable under CEQR. Subsequent counts conducted in 2007 confirmed the validity of the 2004 counts—overall, traffic volumes were extremely flat during this three-year period. The projection of future traffic volumes and associated noise levels accounts for background growth of 0.5 percent per year from 2004 to 2014, consistent with CEQR, and vehicles generated by known development projects in the vicinity of the project site.

**Comment 18-3:** The Draft SEIS Travel Demand Factors are undervalued by about 50 percent. This affects the analysis in Table 18-11. Since the Draft SEIS Travel Demand Factors are undervalued by 50 percent, the values “change” in Table 18-11 are undervalued by the same amount. (CB6 Safety Cmte)

**Response 18-3:** As described in the response to Comment 15-5, the travel demand factors used for this analysis are considered an appropriate estimate of project-generated automobile trips. Therefore, the values indicated in Table 18-11 are also considered appropriate.

## CHAPTER 20: CONSTRUCTION IMPACTS

**Comment 20-1:** Page 20-7 indicates that during excavation and foundation activities water from rain fall and inflow from the nearby East River would be discharged into the New York City sewer system after going through an on-site sedimentation tank. The Draft SEIS does not estimate the amount of water that would be discharged into the sewer system. This activity could overload the city's sewer treatment system, since 70 percent of all water from the sewer system currently goes to the sewer treatment and the rest goes to the East and Hudson Rivers. (CB6 Safety Cmte)

**Response 20-1:** All dewatering flows into the sewer system require the review and approval of NYCDEP. NYCDEP would not allow discharge into inadequately sized pipes, nor would they allow the discharge to interfere with the sewage treatment system. For water discharged into the City sewerage, NYCDEP regulations specify the following maximum concentration of pollutants:

- Petroleum hydrocarbons: 50 parts per million
- Cadmium: 2 parts per million
- Hexavalent chromium: 5 parts per million
- Copper: 5 parts per million
- Amenable cyanide: 0.2 parts per million
- Lead: 2 parts per million
- Mercury: 0.05 parts per million
- Nickel: 3 parts per million
- Zinc: 5 parts per million

In addition, NYCDEP limits other pollutants, such as total suspended particles, in the discharge water. NYCDEP also imposes project specific limits, depending on the location of the project and contamination that has been found in nearby areas. For large-volume discharges into the sewer system, NYCDEP samples and tests the discharge water.

**Comment 20-2:** The plan calls for 1,150 parking spaces of several levels "below grade." Since the parking spaces would be below the site water table, the Draft SEIS should study what impact the diversion of large amounts of water

from the construction site would have on nearby building foundations. At present the Draft SEIS has no such study. (CB6 Safety Cmte)

**Response 20-2:** The proposed development program would comply with all building code requirements respecting these matters. Structures extending below the groundwater table are not uncommon in New York City. The parking and other below-grade facilities would be designed to consider both groundwater-induced water pressures and the potential for flooding. They would be designed to resist pressure from both the permanent groundwater levels and temporary flood conditions. To address groundwater pressure, the bottom slab of the below-grade facility would provide a horizontal groundwater cut-off, and would be designed to resist uplift pressures. These design calculations are done by Professional Engineers and Licensed Architects, who are tested and monitored by the State of New York to ensure their competency. In addition, the designs are reviewed and approved by New York City Department of Buildings before a Building Permit is issued.

**Comment 20-3:** The Draft SEIS should include a comprehensive list of all construction equipment (along with specifications regarding the operating noise decibel levels of such equipment) to be used on the construction site. (CB6 Safety Cmte)

**Response 20-3:** A detailed list of all construction equipment can be found in Appendix F in both the Draft SEIS and Final SEIS. The noise level at the source for each type of equipment type can be found in Table 20-5 of the Draft SEIS and Final SEIS.

**Comment 20-4:** Table 20-7 indicates that the noise receptor located at East 38th Street, between First Avenue at the fifth floor level, would experience decibel levels of 82 during the first quarter of 2009 and 82.9 during the second quarter of 2010. These are unacceptable levels. The Draft SEIS has no plan to mitigate these significant adverse impacts. In addition, there is a medical facility on the southeast corner of 38th Street and First Avenue that is very sensitive to the vibrations that such high decibels could cause. (CB6 Safety Cmte)

**Response 20-4:** The construction noise analysis presented in the Draft SEIS has been revised for the Final SEIS. The revised noise analysis presented in Chapter 20, "Construction" of the Final SEIS includes a commitment for the implementation of additional measures to reduce construction equipment noise levels, as well as refinements in the placement of equipment. The net effect of these improvements is that noise levels due to construction operations have been reduced, project impacts have been reduced, and in most cases significant impacts have been reduced and in

some cases eliminated. As shown in Table 20-7 and Appendix F, Table F.3-1a of the Final SEIS, with the additional noise control measures, Noise Receptor N—which represents the location cited in the comment—would experience a maximum noise level in the mid-70s dBA, rather than the low 80s dBA as cited by the commentator. With regard to vibrations, perceptible vibrations would occur only for limited time periods at locations close to the project sites. Appropriate measures will be implemented to protect vibration-sensitive facilities when such events are likely to occur.

**Comment 20-5:** The planting of about 29 trees over old Con Edison vaults will require the use of jackhammers powerful enough to chop a hole in the sidewalk big enough to construct below grade planters for these trees. The use of jackhammers along 38th Street, less than 35 feet from a medical facility and residential building would have an unacceptable adverse impact on the occupants on these buildings. Similarly, there will be jack hammering activities along 39th and 40th Streets between First Avenue and Con Edison Substation, and 36th Street between First Avenue and the FDR Drive service road with the same impact on residents in buildings on those streets and particularly people using Manhattan Place Plaza. The Draft SEIS indicates that the project will involve additional jack hammering activities for various infrastructure improvements that will continue these adverse noise impacts on the residents of the community. (CB6 Safety Cmte)

**Response 20-5:** As discussed in Chapter 20, “Construction” of the Final SEIS, the Applicant has committed to using jackhammers during construction with path controls that would substantially reduce noise levels. This commitment will be required by the restrictive declaration. Typically, a jack hammer would result in noise levels at 50 feet of 85 dBA. For this project, the Applicant has committed to using jack hammer and path controls that would reduce the noise level at 50 feet to 75 dBA, a substantial reduction in noise levels. Even with the quieter equipment construction, operations such as those cited by this commentator would result in noise levels that are intrusive and noisy. However, they will only occur for a limited time period.

**Comment 20-6:** The building that is being built at 616 First Avenue along 36th Street and ending at the East River Drive is positioned in such a manner as to cause a potentially dangerous situation. The elevated portion of the FDR highway hangs over the sidewalk by approximately 10 feet and meets and follows the site line from 36th to 35th Street. Since the proposed building will be built close to the site line, it will come within a few feet of the elevated portion of the FDR highway. It will not be possible to

stage construction of the building without causing serious traffic and safety issues along the service road, the elevated portion of the East River Drive, and 36th Street. For example, a bathtub sized bucket fell from the construction site at the Bank of America building onto 42nd Street. A serious accident and loss of life that would happen if a similar bucket fell during construction of 616 First Avenue onto the nearby East River Drive where cars will be travelling at 45 miles per hour. (Wyckoff)

**Response 20-6:**

The New York City Department of Buildings has rigorous requirements for the safety of high-rise construction, especially near public thoroughfares. The measures include netting and scaffolding to protect people and vehicles that are passing near the site from falling materials and equipment. Equipment operators are trained and certified, with certification requiring re-examinations. The Department of Buildings regularly inspects construction sites to ensure that safety requirements and rules are being followed. Given the extensive construction that occurs in New York City and the few construction accidents that affect the public, it is expected that existing City construction rules would prevent, to the extent possible, accidents.

Staging for the construction on 616 First Avenue is planned to occur from the center of the site out towards the boundary. This staging plan would keep the construction away from the FDR Drive and East 36th Street, and minimize the possibility of a construction accident affecting people or vehicles passing by the site.

**Comment 20-7:**

The New York City Department of Environmental Protection's citywide Construction Noise Mitigation contemplates a procedure for addressing community complaints of loud noise from construction activities. The construction impact chapter of the Draft SEIS, however, makes no effort to establish and work with a community committee to address reasonable community complaints regarding its construction activities. Having such a committee would be valuable for all parties concerned in that it would promote good communication and relations between the community and the developer. (CB6 Safety Committee)

**Response 20-7:**

Construction of the proposed development program would meet—and through the use of quiet equipment would in many cases exceed—requirements of the New York City Noise Code and NYCDEP Construction Noise Mitigation (Chapter 28). NYCDEP periodically visits construction sites randomly and in response to community complaints in order to ensure that construction equipment and procedures are in compliance with all applicable noise codes and

requirements, which for this project include quiet equipment set forth in the restrictive declaration.

## CHAPTER 22: CONCEPTUAL ANALYSIS OF THE PROPOSED TEXT AMENDMENTS

**Comment 22-1:** Even if this proposed text amendment would only apply in only a few zoning districts, the amendment would create an undesirable precedent in the Zoning Resolution that site planning for a general large scale plan need not be about the buildings on the site, or the relationship those buildings have to the site plan. (Stringer)

**Response 22-1:** Chapter 22, “Conceptual Analysis of the Proposed Text Amendments,” analyzes the potential for significant adverse environmental impacts resulting from possible future City-wide application of the proposed zoning text amendments. As described in Chapter 22, the proposed text amendment cited above would be consistent with the goal of facilitating cohesive and integrated development that is embodied in the GLSD regulations. An existing non-integral building (in the case of the Proposed Actions, the Con Edison substation at 685 First Avenue) would only be permitted in a GLSD located in a high-density zoning district and only if it covered a small portion of a relatively large development site. Further, the proposed text amendment would prohibit bulk distribution from the zoning lot containing the non-integral building in the same way that the existing regulations prohibit bulk distribution from a zoning lot in a GLSD that contains an existing building.

## CHAPTER 23: MITIGATION

### *GENERAL*

**Comment 23-1:** Impacts on schools, traffic and transit, pedestrians, open spaces, and shadows must be taken seriously, and avoided wherever possible. If serious mitigation strategies have not been adopted to meet these concerns, these significant impacts must be considered when the density of development for this area is considered and decided on. (Stringer)

**Response 23-1:** Chapter 23, “Mitigation,” describes the measures proposed to mitigate the significant adverse impacts identified for schools, traffic, transit, and pedestrians. Chapter 5, “Open Space,” finds that the Proposed Actions would not result in significant adverse open space impacts, and therefore, open space mitigation is not required.

*COMMUNITY FACILITIES*

**Comment 23-2:** To mitigate the concern that the WS1-2 building would hinder fire protection efforts, it should be moved 86 feet west from its present proposed location. (CB6 Safety Cmte)

**Response 23-2:** As noted in the response to Comment 4-6, the proposed development program and site plan has been designed according to all applicable New York City building, fire, and safety codes. In addition, the FDNY reviewed the proposed program and site plan and, in a letter dated June 20, 2007, FDNY wrote that the department would not have a problem providing service to the proposed development.

**Comment 23-3:** When the proposed five-story building is made into a K-8 Public School, playground and yard space will be required. Space will be taken away from the Public Plaza and will therefore further impact the use of the Plaza. These impacts can be mitigated by positioning the Public Plaza along First Avenue, which is consistent with the positioning of the public plazas of the surrounding buildings of Rivergate, Manhattan Place, and the Corinthian. (Wyckoff)

**Response 23-3:** As described in Chapter 23, “Mitigation,” most of the school’s playground/yard space could be located on the roof of the school; an approximately 3,000-square-foot enclosed area at the ground level would be required for students of the Early Childhood Learning program. With the ground-level play area, there would be slightly less publicly accessible open space available on the 616 First Avenue parcel, but it would not be of an amount to materially affect the open space ratios presented in Chapter 5, “Open Space.” It, therefore, would not alter the conclusion that the Proposed Actions would improve study area open space ratios, and would not result in significant adverse impacts on open space. Positioning the public plaza along First Avenue would not meet the project’s urban design and land use goals of enlivening the street by providing ground-floor retail along the avenue.

*Public Schools*

**Comment 23-4:** Making the 119,936 sf “community facility” available to the Department of Education for a 650-seat K-8 public school is an important step in the right direction. However, given the scale of the rezoning the developer has requested and the impact the project will have on the public school system, it is not sufficient. While the ERRC has agreed to allow the School Construction Authority to use the community facility space as a school, it has not committed to help fund the new facility, or to construct the building during the early stages of

construction. Under the circumstances, the cost of constructing the new school should not be born solely by the taxpayers. When contemplating the rezoning, the city should strongly consider requiring the ERRC to provide substantial funding for the new school on its property and/or commit to building a facility that will provide space for more than 650 new seats and/or assist with the costs of building supplemental floors on top of the existing PS 116 building to accommodate more children at that site. (Krueger)

**Response 23-4:** As cited in the response to Comment 4-12, the Applicant and the SCA will enter into an agreement for an approximately 630-seat K-8 public school at 616 First Avenue as part of the approximately 120,000 square feet of community facility space analyzed in the DEIS. This school is planned to be operational by September 2012.

**Comment 23-5:** In order to alleviate the current and future overcrowding of East Midtown's schools, relating to massive population increases, the Department of Education must work to alter the school zone catchment areas. (Krueger)

**Response 23-5:** Comment noted. Chapter 23, "Mitigation," describes the adjustment of school zone catchment areas as a mitigation option available to the Department of Education.

*SHADOWS*

**Comment 23-6:** CB6 agrees with the determination of Chapter 6, "Shadows," that the proposed development would add significant shadows to the open spaces at Tudor City and, therefore, 685 First Avenue should remain zoned C1-9 and be excluded from the proposed GLSD in order to reduce shadows—as would be the case in the CB6 alternative. (CB6-1)

**Response 23-6:** As described in the response to Comment 1-27, retaining C1-9 zoning at the 685 First Avenue building would not necessarily result in a lesser building height. Chapter 24, "Alternatives," finds that the CB6 Alternative, which is based on a C1-9 rezoning, would not result in significant adverse shadow impacts on Tudor City open spaces; but the avoidance of that impact under the CB6 Alternative is due in part to differing building configurations on the 708 First Avenue parcel.

**Comment 23-7:** Shadow impacts on St. Vartan Park and Manhattan Place plaza can be mitigated by repositioning the building on the 616 First Avenue site, eliminating the building near First Avenue so that shadows are not cast on public parks and plazas, and reducing building heights. (Wyckoff)

**Response 23-7:** Chapter 6, “Shadows,” analyzed the potential for significant adverse shadow impacts on St. Vartan Park and Manhattan Place Plaza, and with respect to those resources found that the Proposed Actions would have a significant adverse impact only on Manhattan Place Plaza, which would occur only during the winter analysis period. Chapter 23, “Mitigation,” describes the Applicant’s consideration of various mitigation options for the significant adverse impact on Manhattan Place Plaza; the analyses associated with those considerations found that moving the building away from First Avenue would result in only marginal improvements to shadows on Manhattan Place Plaza, and would not meet the project’s urban design and land use goals of enlivening the street by providing ground-floor retail along the avenue. Another option considered was maintaining the retail frontage along First Avenue while moving the residential portion of the building away from First Avenue (onto the proposed publicly accessible open space). While this would maintain the new retail presence along First Avenue, it would result in only marginal improvements to shadows and, because it would require a larger amount of the site area for building, would dramatically reduce the amount of new publicly accessible open space on the site.

**Comment 23-8:** Reducing building heights consistent with the recommendation to reduce the density of the development can mitigate shadow impacts on St. Vartan Park and Manhattan Place plaza. (Wyckoff)

**Response 23-8:** Chapter 6, “Shadows” of the SEIS analysis does not identify a significant adverse shadow impact to St. Vartan Park that would require mitigation. With respect to Manhattan Place Plaza, as described in Chapter 23, “Mitigation,” in order to fully mitigate the significant adverse impact, a reduction in the height of either of the proposed 616 First Avenue buildings would have to be substantial enough to remove approximately half of the area of incremental shadow that would be cast on the resource by one of the buildings. That would require either the western building to be reduced to a height of approximately 50 feet, or the tower of the eastern building to be reduced to a height of approximately 75 feet.

**Comment 23-9:** Regarding whether the shadow impact would be more or less the same as in the current proposal if the building heights were lowered 10 or 15 feet, the point is that the plan should look at lowering the heights more than that. (Garodnick)

**Response 23-9:** Comment noted. Chapter 23, “Mitigation,” describes the range of mitigation options that were considered for the significant adverse

shadow impacts. To fully avoid the significant adverse impact on Manhattan Place Plaza, either the western building on the 616 First Avenue parcel would have to be substantially reduced to a height of approximately 50 feet or the eastern building on the parcel would have to be substantially reduced to a height of approximately 75 feet. To fully avoid the significant adverse impact on the Tudor City open spaces, the height of the building on the 685 First Avenue parcel would have to be substantially reduced to a height of approximately 320 feet and, concurrently, the height of the building on the 708 First Avenue parcel would have to be substantially reduced to a height of approximately 360 feet. As further described in Chapter 23, “Mitigation,” these substantial reductions in height were considered, but rejected, because they would affect the other important development objectives associated with the Proposed Actions—namely, the provision of a large publicly accessible open space on the development parcels that could only be achieved by developing tall and slender towers.

**Comment 23-10:** A diagonal building mirroring Manhattan Place, which CB6 has proposed for 616 First Avenue, was not studied in the Draft SEIS. A diagonal building would likely result in much less shadowing on St. Vartan's Park and Manhattan Place Plaza and should be studied in the Final SEIS. (CB6-Frank and Rubin)

**Response 23-10:** Chapter 6, “Shadows,” analyzes the potential effects of the proposed development program’s shadows on St. Vartan Park and did not identify a significant adverse shadow impact on that resource. With respect to Manhattan Place Plaza, as described in Chapter 23, “Mitigation,” in order to fully mitigate the significant adverse impact, a reduction in the height of either of the proposed 616 First Avenue buildings would have to be substantial enough to remove approximately half of the area of incremental shadow that would be cast on the resource by one of the buildings. That would require either the western building to be reduced to a height of approximately 50 feet, or the tower of the eastern building to be reduced to a height of approximately 75 feet. Any tall buildings on the 616 First Avenue parcel extending towards First Avenue, even if on a diagonal, would result in substantial new shadows on Manhattan Place Plaza.

#### *TRAFFIC AND PARKING*

**Comment 23-11:** The traffic mitigation measures suggested in the Draft SEIS include the following:

- Three new traffic signals

- Signal phasing changes
- Changes for parking regulations
- Street channelization changes
- Stricter enforcement of parking regulations

As acknowledged by the EIS consultant, all these measures are under the purview of the City. The Applicant has not offered to pay for any of these measures. It is not certain that the City will implement these measures or that they are feasible. These measures are also expected to have negative impacts on pedestrian friendliness and on the business climate. Replacing a parking lane with a traffic lane makes walking on the adjacent sidewalk unpleasant.

A development of this magnitude needs to present real mitigation measures that reduce traffic demand rather than measures that increase roadway capacity and encourage more driving. The Applicant should be required to operate shuttle buses to the Lexington subway stations and to Grand Central to overcome the longer walking distances between the project location and the transit system. Reducing the amount of parking provided on site would also be a significant mitigation measure.

For comparison purposes, the Trump development on the west side of Manhattan paid for the following mitigation measures: \$10 million for the improvement of the 72nd Street subway station, added a new staircase at the 66th Street subway station, made a \$7 million contribution to the EDC fund for rail yard improvements, conveyed new mapped streets to the City, provided an easement for a new transitway, and funded an improvement plan for West End Avenue. In addition to the above transportation mitigation measures, the Trump project provided significant affordable housing contributions and built a substantial park along the Hudson River. (BFJ-1)

**Response 23-11:**

NYCDOT and NYPD have reviewed the mitigation measures identified in the SEIS and have agreed that they are feasible. The Applicant will be responsible for the cost of the capital traffic mitigation measures. These measures constitute the range of mitigation measures that NYCDOT and others typically implement as projected conditions materialize and the need for these measures is realized. The measures would not affect pedestrian-friendliness; there are numerous curb lanes throughout the City, and within the immediate study area, which are dedicated to use by buses or other moving traffic. The intent of the mitigation measures is to increase intersection capacity and minimize delays to vehicular traffic, and would not generate unneeded capacity that would result in additional traffic. The project sites are located within walking distance of the area's transit services and the study area already has substantial cross town and north-south bus service. With the

expected implementation of the proposed Second Avenue Subway, walk distances to subway facilities will be shorter at some point in the future, as well. The mitigation measures cited for the Trump development were tailored to the impacts projected for that project, and are not relevant to the adequacy or appropriateness of the mitigation measures identified for the Proposed Actions.

**Comment 23-12:** Reducing the amount of parking provided onsite would be a significant mitigation measure. (BFJ-1)

**Response 23-12:** The amount of proposed parking is intended to address the project's parking demand. Given the availability of off-site parking, even at a greater distance from the development parcels, it would not be conservative to assume that a reduced parking supply would result in substantially reduced traffic.

**Comment 23-13:** In an effort to address the issues of the vast number of cars which would be attracted to the transient and accessory garage space, ERRC has fallen back on "signal re-timing." Given that a significant number of intersections are already at or below "D" performance levels, this is an effort that is unlikely to produce long-term, constructive remediation of the already grim area traffic. (CB6 Transp Cmte)

**Response 23-13:** Signal timing modifications are one of a number of standard measures determined to be useful in mitigating projected project impacts. NYCDOT has reviewed and concurred with the proposed signal modifications and other mitigation measures.

**Comment 23-14:** There are equity issues about the proposal for "Strict enforcement of existing parking regulations...(and) Installation of traffic signals at currently unsignalized intersections." Is there any assurance any of these proposals will be paid for by DOT? If not, will ERRC pay for them? What about lane and signage changes? Will ERRC pay for, and continue to maintain them? (CB6 Transp Cmte)

**Response 23-14:** The Final SEIS indicates that the Applicant will conduct a comprehensive traffic-monitoring program to verify the need for the proposed mitigation measures. This will also include traffic signal warrant analyses for proposed new traffic signals to accommodate traffic at locations that are currently Stop sign controlled. NYCDOT will implement those measures determined to be necessary. The Applicant will be responsible for the cost of the capital traffic mitigation measures.

## **First Avenue Properties Rezoning Final SEIS**

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**Comment 23-15:** Is there any assurance that lane and signage changes will be permanent? Will some or all of these alleged mitigations be undone at the behest of someone pursuing a project elsewhere? Mitigations are permanent only until the next significant project comes down the pike. (CB6 Transp Cmte)

**Response 23-15:** Lane striping and signage changes approved by NYCDOT will be maintained as long as needed and appropriate, as determined by that agency.

**Comment 23-16:** Unless ERRC is willing to permanently, by bonded and insured contract, fund the effort for Parking and Traffic Enforcement Agents (PEAs or TEAs), it is a non-starter as remediation for the commercial/office building garage. (CB6 Transp Cmte)

**Response 23-16:** This mitigation will be provided by the NYPD as determined to be needed and appropriate.

**Comment 23-17:** The developer's suggested mitigations foisted upon the DOT and MTA are pie in the sky. (SAC-Ladin)

**Response 23-17:** Mitigation measures identified in the SEIS are part of the range of traffic and transit system capacity improvements typically implemented by NYCDOT and MTA/NYCT where needed, and these agencies have reviewed the identified measures and deemed them feasible.

**Comment 23-18:** The developer claims throughout the Draft SEIS that many of the extremely severe traffic and transit impacts can be mitigated, or at least partially mitigated by actions such as the expansion of cross-town bus service, the widening of crosswalks and stairway, improved parking and traffic management and enforcement, and altering traffic lights. However, because every single suggested traffic and transit mitigation measure would have to be implemented and funded by city agencies, there is no guarantee that they would ever take place. Unless the developer is willing to fully fund these service expansions and infrastructure improvements, and the city is entirely committed to executing them in a timely manner, they cannot be viewed as realistic. (Krueger)

For some of the analyzed intersections, the EIS suggests that the additional congestion the project would cause could be mitigated partly or wholly. The methods for mitigating the congestion would be stricter enforcement of parking and traffic laws already on the books, new traffic signals and changing the timing of some signals, and channeling traffic differently in some places. All of these are steps that the city

would have to take at public expense and—at a minimum—we should consider whether the developer should be asked to bear a greater share of the cost of these changes. (Kavanagh)

**Response 23-18:** NYCDOT and NYCT have reviewed the mitigation measures identified in the SEIS and have agreed that they are feasible. The costs associated with most traffic and transit mitigations typically are borne by the City. The Applicant would be responsible for the cost of the capital traffic mitigation measures. Based on the incremental demand of the proposed project on the PL9 stairway at Grand Central Station, the Applicant would be responsible for its fair and allocable share of the cost of the proposed widening.

**Comment 23-19:** Included in ERRC’s mitigation proposals are a wide range of traffic engineering steps. On the other hand, some local intersections are already at “D” or “F” levels of service and are deemed beyond mitigation by ERRC. (CB6-Sepersky)

**Response 23-19:** The SEIS identifies those significantly impacted locations that can be fully mitigated according to *CEQR Technical Manual* and NYCDOT standards. Others that can only be partially mitigated or cannot be mitigated at all are also identified in the SEIS.

**Comment 23-20:** Enhanced parking and traffic enforcement is a key proposed mitigation. But agents come and go with astounding frequency and mysterious agency rationales. Funding for a sufficient force of PEAs and TEAs ebbs and flows like a miserable traffic mess. (CB6-Sepersky)

**Response 23-20:** The Applicant has committed to conducting a comprehensive traffic monitoring plan after the first two buildings (expected to be 685 First Avenue and 708 First Avenue) are constructed and again after the entire proposed development is built. These traffic monitoring programs are intended to verify the need for mitigation measures identified in the SEIS. Projected enforcement needs would be validated or adjusted at that time as a result of the findings of the monitoring study.

**Comment 23-21:** The proposed zoning changes should be rejected unless the developer provides a plan that would genuinely mitigate the traffic congestion that the project would otherwise cause. The Mayor and the State Legislature have rightly recognized that traffic congestion in Manhattan’s central business district has a deleterious effect on our quality of life, air quality, and economy. In response, we have seen ambitious plans to reduce the need for people to drive into Manhattan for work and to increase the availability of alternative modes of transportation. And we have seen a commendable effort to ensure that new development is

matched with public transportation. The ERRC proposals all but ignore this growing awareness. If this project is approved as the developer currently envisions it, we could be simply undoing any of the other constructive steps we might otherwise take to mitigate traffic congestion and render the problem of clogged streets even more intractable than it is today. (Kavanagh)

**Response 23-21:** The SEIS outlines in detail a comprehensive set of traffic mitigation measures, pedestrian improvements, and bus service improvements, which are consistent with the types of measures successfully implemented by NYCDOT and MTA/NYCT throughout the City where and when necessary.

**Comment 23-22:** To the extent that the developer's mitigation measures are feasible ways of reducing traffic congestion, we ought to be taking them with or without the project. The so-called mitigation that the developer proposes would simply lock in the congested status quo that we see every day on First and Second Avenues, on the FDR, and on the East River crossings. Before this project is approved, the developer should be required to either significantly scale it back or take responsibility for proposing real steps to mitigate increased traffic congestion. (Kavanagh)

**Response 23-22:** The mitigation measures identified and evaluated in the SEIS are feasible and have been identified through the course of conducting the detailed analyses within the SEIS. The mitigation measures are aimed specifically at addressing projected future traffic conditions with the proposed development in place, and may not be appropriate today. The measures described address and mitigate significant impacts as per the criteria established in the *CEQR Technical Manual*.

**Comment 23-23:** New office space would increase the need for people to commute into Manhattan. Unless the developer is prepared to present a reasonable explanation for how all the people generated by the project will get to First Avenue in a way that does not seriously set back our efforts to get traffic congestion under control, I believe that the zoning changes that would allow the office space on the site should be rejected. (Kavanagh)

**Response 23-23:** The SEIS details the traffic measures needed to accommodate new trips generated by the proposed development. In the Final SEIS, at the 88 traffic study locations in Manhattan, 88 percent of the intersections would either not be significantly impacted or would be fully or partially mitigated. All pedestrian and transit impacts would be fully mitigated. NYCDOT has reviewed and approved the proposed mitigation measures (see response to Comment 23-25).

**Comment 23-24:** During rush hour the southbound traffic on 2nd Avenue between 35th Street and 42nd Street is gridlocked and pedestrians cannot see across the street. 35th Street to 39th Street is gridlocked from 2nd Avenue to Lexington Avenue. This is without added traffic coming into the neighborhood to park in the Applicant's garage parking spots. There is no mitigation that can work or the NYCDOT would have corrected the problems. (Gleicher)

**Response 23-24:** The SEIS's mitigation analyses identify traffic capacity improvements that would be needed to mitigate project-generated impacts along Second Avenue between 35th and 39th Streets. Except for AM and PM peak hour conditions at one intersection—at Second Avenue and 36th Street right at the foot of the Queens-Midtown Tunnel—all other intersection impacts in this section of second Avenue can be fully mitigated. NYCDOT has reviewed and approved the proposed mitigation measures (see response to Comment 23-25).

**Comment 23-25:** If the corners are all already at the maximum for traffic congestion on the charts the use, then doubling the impact doesn't even get reflected in the analysis. And the argument that the City of New York will do mitigation to resolve the problems of these increased and doubling of traffic patterns is unacceptable. (Krueger)

**Response 23-25:** The SEIS's analyses detail all changes in volume-to-capacity ratios and average vehicle delays for projected future conditions with and without the Proposed Actions. The SEIS also describes where significant traffic impacts can be fully mitigated, where they can only be partially mitigated, and where they cannot be mitigated. NYCDOT has reviewed the proposed mitigation measures and is committed to implementing them if, after the proposed development is occupied, they are confirmed as necessary through a comprehensive traffic monitoring plan to which the Applicant has committed. The Applicant will be responsible for conducting the traffic monitoring plan at its expense, and the scope of the plan will be subject to review and approval by NYCDOT before the monitoring plan can commence.

**Comment 23-26:** One of these challenges that the NYPD faces is the FDR service road, which is hardly mentioned in the Draft EIS. There's no mitigation for it whatsoever, and it definitely needs it. All along the avenues, the FDR access signs direct drivers from 42nd, 36th and 34th to this roadway, which is a very narrow two-lane roadway with a very dangerous S-curve at 36th Street; because of the property of 616, the sidewalk juts out too far. It needs to be brought in. Mitigation can be done, very simply, by the developer. One would widen the roadway from 42nd

Street to 34th Streets. This can be done by slightly decreasing the sidewalks and removing the asphalt median and the jersey barriers that sit on top of each other in the middle of that roadway. Curb cuts along the FDR Drive should be eliminated for this project. Having delivery trucks and cars enter via the FDR service road is dangerous and just irresponsible.

The underutilized FDR 42nd Street exit (which is actually the 34th Street exit) should be eliminated and an entrance created at approximately 41st Street. This is something that State DOT is looking at. CB6 requested and received DOT approval to convert 41st Street to one way westbound. It is used as a major bus layover. That is where the commercial building will go. Black limos will be replacing the buses. They'll be all over that roadway. (CB6-Carlina)

**Response 23-26:** Conditions along the FDR Drive service road from 34th Street north to 41st Street are fully addressed in the SEIS as part of the SEIS' 100-intersection network analyses. These analyses have not shown a need to widen the service road at 36th Street or all the way from 34th to 42nd Streets in order to mitigate project impacts. The 42nd Street exit is substantially used by traffic. Regarding 41st Street, in the future Build condition (i.e., with the Proposed Actions), black cars could be accommodated along the south curb, which is currently a no standing area.

**Comment 23-27:** Opening up traffic lights as a mitigation measure won't work. (Gleicher)

**Response 23-27:** Three new traffic signals are proposed and have been approved by NYCDOT as appropriate and feasible mitigation measures. The new signals would fully mitigate the identified significant adverse impacts at these locations.

*TRANSIT AND PEDESTRIANS*

**Comment 23-28:** ERRC's mass transit mitigation (expansion of M16/M34 route's capacity) is noteworthy. However, it rests on the ability and capacity of the MTA/NYCT to purchase the additional new buses and associated garage, maintenance and repair facilities, and the astonishingly difficult job of finding sites that are geographically and environmentally suitable. There is no assurance that NYCT will be able to do this, or that ERRC's proposed development can be jumped to a priority in planning or allocation of NYCT's resources. Nor does ERRC say it will fund this remediation. (CB6 Transp Cmte)

**Response 23-28:** In accordance with CEQR guidance, the SEIS identifies the impact on bus routes and the required number of buses to meet project-generated demand. In accordance with procedures outlined in the *CEQR Technical Manual*, NYCT has reviewed and conceptually approved the recommended service enhancements. The provision of depots is undertaken on a system-wide basis, and the potential incremental increase in bus operations due to the Proposed Actions is quite small compared to overall system capacity. NYCT periodically reviews bus operations and adjusts service frequency, dispatching, and other aspects of its bus operations to meet passenger demand. As the need for additional vehicles or depots is identified by NYCT, it incorporates the fleet expansion or facility requirements into its capital plan.

**Comment 23-29:** Access to the Flushing line would suffer a “significant adverse impact” in the AM and PM peak periods, according to ERRC. Their solution is “widening by 15 inches which would be required to fully mitigate the impacts of project generated trips” to the “escalators and central stairways (PL9) that lead to street level.” According to ERRC, 24 inches (2 feet) of platform and mezzanine queuing capacity may not make this proposed widening practical, a decision which would rest with NYCT. If this proposal is impractical, the location would be unmitigated. And if it is doable, what is the cost and who is going to pay? (CB6 Transp Cmte)

The developer needs to fund service expansions, associated costs, and those of the PL9 subway access suggestion. (CB6 Transp Cmte)

**Response 23-29:** The mitigation chapter of the Final SEIS has been updated to note that the mitigation for the significant adverse impact on the PL9 stairway would be provided subject to authorization by NYCT following the review of necessary design studies. Based on the incremental demand of the proposed development program on the PL9 stairway, the Applicant would be responsible for its fair and allocable share of the cost of the proposed widening.

**Comment 23-30:** The M42/M104 buses would have significant increases in ridership. It is the position of the developer that there is sufficient capacity on the M104 to absorb the additional riders within existing service levels. Page 23-27 states “impacts were not identified for the M15 or M104 bus routes.” But it is not clear that current commercial office expansion along the M104 route has been factored into this analysis (i.e., new offices for the New York Times at 41st Street and Eighth Avenue; a major office complex at 42nd and Eighth; the new Durst office building at Sixth Avenue and 42nd Street). The eventual construction of the UN’s swing building was not sufficiently factored into the analysis. One

approach to this issue would be that conversion to “artics” re-raises the issues of NYCT’s budget and cost and location of the additional garages, maintenance, and repair facilities. That there will be tremendous competition for any such locations since a key element of CM is a growth in the number of commuter buses to get drivers out of their cars. (CB6 Transp Cmte)

**Response 23-30:** The M104 route provides crosstown service on 42nd Street only between Broadway and First Avenue, whereas the M42 travels between First and Twelfth Avenues. Furthermore, the M104 provides for less frequent service than the M42. Therefore, a larger portion of project-generated bus trips would be expected to use the M42 route. No Build conditions for the crosstown bus routes were projected based on volumes presented in the Hudson Yards FGEIS. The Hudson Yards FGEIS accounted for projected increases in ridership from west side development projects, including those located in the Times Square area. The SEIS analyzes the projected impacts of the proposed development program under future conditions both with and without the proposed UNDC building. As noted, NYCT has reviewed the proposed mitigation measures and found them to be feasible.

**Comment 23-31:** Signal tweaking is a superficial quick fix (M15 route). In addition to the possible physical changes to the street, BRT includes possible use of bus signal priority (signals being controlled to give buses the right of way). This clearly does not mesh with adjusting signals for the benefit of traffic of the ERRC garage. It shifts the burden of the injection of this traffic to others. What is the equity of having one community deal with the serious issues of, for example, the ability of elderly and handicapped residents crossing a crowded major street safely, in order to accommodate the ERRC garage (CB6 Transp Cmte)

**Response 23-31:** BRT is still early in the planning stage and details about bus signal priority are not yet known. Bus signal priority will be evaluated jointly by NYCT and NYCDOT as part of the BRT project and it will then be determined if it is feasible and where it may be applied. Until that time, it is not possible to evaluate how such systems would mesh with corridor and areawide traffic flow needs. The SEIS examines pedestrian safety issues at high-accident locations, and concludes that standard safety measures would eliminate the potential for significant adverse impacts related to pedestrian safety.

**Comment 23-32:** Included in the pedestrian mitigation proposals are widening of crosswalks, including increases in queuing areas, with the Applicant being responsible for requesting implementation of these measures by

the appropriate agencies. But that doesn't mean these positive and productive proposals are going to happen. Mitigation measures outlined on Pages 23-28 and 23-29 would be, if anything, too modest and argue against C5-2/C4-6 zoning. (CB6 Transp Cmte)

**Response 23-32:** The proposed mitigation measures described in Chapter 23, "Mitigation" of the Final SEIS have been reviewed and approved by NYCDOT, which has committed to implementing them.

**Comment 23-33:** ERRC dismisses the UN's swing building traffic and pedestrian impacts by adjusting a few traffic lights, modification of "No Parking" regulations, or to simply acknowledge that some intersections would be beyond mitigation. Regardless of the final decision on the 616,685, and 700/8 sites, there will be a need to make the sidewalks and crosswalks from 34th Street to 42nd Street, Third Avenue to the service road of the FDR Drive, and river front park access, aggressively pedestrian friendly. (CB6 Transp Cmte)

**Response 23-33:** Potential traffic and pedestrian impacts associated with possible development of the UNDC building are fully addressed in the SEIS in Chapters 15 and 16, along with mitigation needs in Chapter 23.

**Comment 23-34:** During rush hour, the Nos. 6 and 7 trains and the M-34, M-42, and M104 busses are already over capacity and there is no additional room for more people. If there were possible mitigation, the Transit Authority would have corrected our present severely overcrowded conditions. (Gleicher)

**Response 23-34:** The transit mitigation analysis presented in the SEIS was prepared in accordance with methodologies set forth in the *CEQR Technical Manual*. NYCT has reviewed the SEIS and has determined the mitigation to be feasible.

**Comment 23-35:** Regarding the No. 7 train, widening a stairway won't work because there's no room on the trains for people. They're already squashed. (Gleicher)

**Response 23-35:** The transit mitigation analysis presented in Chapter 23, "Mitigation" of the SEIS was prepared in accordance with methodologies set forth in the *CEQR Technical Manual*. NYCT has reviewed the SEIS and has concluded that the mitigation is feasible.

*CONSTRUCTION*

**Comment 23-36:** Chapter 20, Page 26 of the Draft SEIS states that the developer will submit all noise mitigation measures in a mitigation plan that is required as part of the New York City Noise Control Code. The mitigation plan should be included in this Draft SEIS as a part of the developer’s noise construction impact analysis. In addition, the Draft SEIS should include a comprehensive list of all construction equipment (along with the specifications regarding the operating noise decibel levels of such equipment) to be used on the construction site. (CB6 Safety Cmte)

**Response 23-36:** After issuance of the Draft SEIS, the noise control measures assumed for the construction analysis were reviewed and it was determined that the implementation of other additional measures could potentially reduce the magnitude of, or eliminate, project impacts. Therefore, the Final SEIS reflects a number of changes that were made to the construction noise analysis and comprehensively identifies the noise control measures that would be implemented during construction. These measures will be included in the restrictive declaration that will be recorded for the Proposed Actions.

**Comment 23-37:** The New York City Department of Environmental Protection’s citywide Construction Noise Mitigation contemplates a procedure for addressing community complaints of loud noise from construction activities. The Construction chapter of the Draft SEIS, however, makes no effort to establish and work with a community committee to address reasonable community complaints regarding its construction activities. Having such a committee would be valuable for all parties concerned in that it would promote good communication and relations between the community and the developer. (CB6 Transp Cmte)

**Response 23-37:** A community committee will be established to address reasonable community complaints regarding construction. Further, as described in Chapter 20, “Construction,” the Applicant will undertake a proactive construction approach that would employ a wide variety of measures that exceed standard construction practices and have been deemed feasible and practicable to minimize construction noise and reduce potential noise impacts. These measures will also be described in the noise mitigation plan required as part of the New York City Noise Control Code.

**CHAPTER 24: ALTERNATIVES**

**Comment 24-1:** CB6 has prepared a 197-a plan for the area between the waterfront and west of Second Avenue between 14th and 59th Streets addressing the future of many sites, including Bellevue and Stuyvesant Town, which received threshold approval by the City Planning Commission on 23 January 2006 but has been held in abeyance to be considered at the same time as the ULURP application by ERRC for the rezoning of the Waterside properties. (CB6-1)

**Response 24-1:** Comment noted. With respect to the concurrent review of the Proposed Actions and the 197-a plan, see the response to Comment 5.

**Comment 24-2:** Today we have a substantial imbalance of land uses in Manhattan: we have about 2.3 million jobs and only about 900,000 employed residents. Of the 900,000 employed residents, about 150,000 persons need to commute into Manhattan. This represents a tremendous load on our transportation system, with substantial economic and environmental costs. Each time we add an office building in Manhattan we add to this load and each time we add apartment we reduce this load. For every one million square feet of new office building, we increase the commutation load by at least 4,000 persons, and for every 1,000 apartments that we add we decrease the load by about 1,000 commuters. The proposed development program with a mix of office and residential uses would increase the overall commutation load by about 2,150 persons, whereas the CB6 alternative would decrease the commutation load by about 4,025 persons. This is a significant difference, because it means the CB6 alternative will actually decrease the loads at the Manhattan portals (bridges, tunnels, subways, and commuter trains). The net difference between the two alternatives is about 6,200 commuters in and out of Manhattan. Even though these reductions on each element may be small, they are important in view of the City's sustainability goals and they represent a long lasting change in our land-use balance.

By not taking into consideration the fact that the CB6 Alternative will actually reduce the loads at the portals, including the traffic coming into Manhattan via the Queensboro Bridge and via the Midtown Tunnel, the Draft SEIS is biased against the CB6 alternative. The difference between the two alternatives is therefore greater than presented in the Draft SEIS.

This land use difference also has an effect on housing affordability in Manhattan. Whereas the proposed development program will increase the pressure on housing prices (by adding more jobs than residents) the CB6 Alternative will reduce the pressure on housing prices (by

increasing the apartment supply in Manhattan without increasing the demand). The Draft SEIS needs to address these differences. (BFJ-1)

**Response 24-2:**

The SEIS identifies the magnitude of the difference in potential traffic impacts at the portals, i.e., the Queens-Midtown Tunnel (QMT) and the Queensboro Bridge, in Chapter 24, “Alternatives.” According to the SEIS analyses, the CB6 Alternative traffic volumes across the East River at the QMT and Queensboro Bridge would result in increases in trips in and out of Manhattan during the AM, midday, PM, and Saturday midday peak hours—just as the proposed development program would. The difference in volumes between the CB6 Alternative and the proposed development program is far less than the 6,200 commuters cited in the comment. When compared with the proposed development program, the CB6 Alternative would result in fewer peak hour East River crossings (i.e., across both facilities) by 286 vehicles per hour (vph) in the AM peak hour, 42 vph in the midday peak hour, 205 vph in the PM peak hour, and 42 vph in the Saturday midday peak hour. These peak hour differences translate to one percent or less of the approximately 20,000 vph combined capacity of the QMT and Queensboro Bridge portals during each of the peak hours analyzed in the SEIS. In response to the concluding comment above, Chapter 3, “Socioeconomic Conditions” of the SEIS determined that the Proposed Actions would not have a significant adverse impact in terms of indirect residential displacement.

**Comment 24-3:**

CB6 supports the principles and goals established in its 197-a and 197-c plans, including:

- Shorter, more contextual buildings which defer to the pre-eminent UN complex and Secretariat Building;
- East 39th and East 40th Streets designated as real public streets, which will serve as the gateway to a future waterfront park and open space;
- Buildings which cast fewer shadows on our parks and open spaces, such as St. Vartan Park, Tudor City Parks, Manhattan Place Plaza, and the ERRRC proposed on-site public open space;
- First Avenue retaining its existing C1-9 zoning designation and excluding it from the proposed General Large Scale Development;
- C1-9 zoning which has, since the 1980s, been the zoning district selected by the City Planning Commission for redevelopment of formerly manufacturing districts along First Avenue from East 34th to East 40th Streets;
- Quality on-site open space bounded by the extensions of East 39th Street and East 40th Street east from First Avenue which will be

subject to all of zoning's height, setback, and streetwall restrictions; and,

- Affordable housing onsite to develop a truly mixed-use development. (CB6-Rubin)

**Response 24-3:** Comment noted.

**Comment 24-4:** The 197-a and 197-c Plans for the site include C1-9 zoning, reasonable heights, proper density, fewer parking spaces, re-mapping of 39th and 40th Streets as public roads rather than private driveways which generate FAR, open space that works and is permanently accessible to the public, access to the waterfront, development that does not increase environmental impacts, and more affordable housing. (CB6-Peveri)

**Response 24-4:** Comment noted. As cited in the response to Comment 1-1, Chapter 24, "Alternatives" analyzes the potential impacts of an alternative based on the CB6 197-c application relative to those identified for the Proposed Actions. The analysis indicate that in some respects, significant adverse impacts would be similar under the CB6 Alternative (such as for schools), diminished (such as for shadows, traffic, and transit), and in other respects additional impacts could occur (such as on open space).

**Comment 24-5:** CB6 supports a 10 FAR which is incorporated into the 197-c plan. (CB6-Rubin)

**Response 24-5:** Comment noted.

**Comment 24-6:** The Draft SEIS states that, unlike the developer's proposal, the CB6 Alternative would not result in significant adverse shadowing impact on the Tudor City open spaces. Moreover, the CB6 Alternative results in less shadowing overall on virtually every open space in the area. (CB6-Frank and Rubin)

The proposed development would cast shadows on the open spaces of Manhattan Place Plaza, a significant unmitigatable impact. The Draft SEIS shows that likely development at the proposed density without waivers (the Community Board 6 Alternative) would have a lesser impact because shadows on the open space would be of a shorter duration than those that would result from the proposed development. The Community Board 6 Alternative would also have a lesser impact on St. Vartan Park, one of the few large public parks in the neighborhood, which is just across First Avenue from the proposed development. (Stringer)

**Response 24-6:** Chapter 24, "Alternatives," concludes that unlike the proposed development program, the CB6 Alternative would not have a significant

adverse shadow impact on the Tudor City open spaces during the December 21 analysis period, but like the proposed development program, would result in a significant adverse impact on Manhattan Place Plaza during the December 21 analysis period. Chapter 6, “Shadows” analyzes the potential for significant adverse shadow impacts on all sun-sensitive resources in the area, and discloses project-generated shadows on those resources. That analysis concluded that there would not be a significant adverse shadow impact on any other resources, including St. Vartan Park. Chapter 23, “Mitigation,” describes the partial mitigation identified for the Tudor City open spaces and Manhattan Place Plaza.

## **GENERAL COMMENTS**

### *SECURITY*

**Comment G-1:** CB6 disagrees with the omission in Chapter 4, “Community Facilities,” of any discussion of public safety and security issues that might arise from proximity of the project to the United Nations and recommends that the Draft SEIS be modified to disclose this information. (CB6-1)

The proposed development site is near the United Nations complex and involves a residential building less than 20 feet from the FDR Drive. Since the United Nations building itself is set back from the FDR Drive, the proposed residential tower would be an inviting substitute prize for terrorists. Accordingly, it is important to conduct a “threat analysis and risk assessment” for this building. Such an analysis should include assessment of the impact of various sizes of high explosives. (CB6 Safety Cmte)

The developer’s proposal calls for the entrances to the underground garage to be located on the FDR Drive side, which makes a terrorist attack especially convenient. What mitigating measures are to be taken to address these public safety concerns? (CB6 Safety Cmte)

Parking and loading facilities, particularly public parking garages, present the risk of allowing explosives to be driven to a location within a building where they can cause great damage. Avoiding such risks needs to be balanced against the desirability of accommodating necessary parking and loading within buildings rather than in streets or in open areas where they conflict with other priorities. (CB6 Parking Memo)

One possible mitigation measure to increase security is to build a deck over the FDR Drive. (CB6 Safety Cmte)

**Response G-1:** Comments noted. An analysis of security impacts and issues related to terrorism is beyond the scope of CEQR. Issues related to security and anti-terrorism measures would be addressed by the appropriate public safety officials.

**Comment G-2:** There is concern with ERRC's response to Scoping Comment No. 57, that an "analysis of security impact and issues related to terrorism are beyond the scope of City Environmental Quality Review (CEQR)." The developer's counsel stated that courts have held that CEQR does not require security analysis to be included within scoping of an EIS. However, that circumstance involved a project that was not a high value target in terms of a terrorist target. The Con Ed site by contrast is in close proximity to the United Nations and would therefore be a much higher value target. CEQR was enacted in 1973, when the city was not under constant threat of a terrorist attack, and its scoping requirements have not been amended since. In a post September 11 environment, it would be irresponsible not to consider security concerns. For example, the Freedom Tower was moved 95 feet away from the West Side Highway in order to limit blast damage from a car or truck bomb. (CB6 Safety Cmte)

Since 1993, it is a known fact that the UN is a terrorist target. It is difficult to obtain and sustain property insurance in the UN area. Of the proposed project, 708 First Avenue is the most egregious because of its proposed commercial office space and the fact that it's a dangerous security threat to the UN. (CB6-Curtis)

**Response G-2:** The applicable law regarding CEQR/SEQRA and the analysis of security issues as described in the cited response to the scoping comment is accurate. Case law in New York State interpreting the SEQRA regulations, at 6 N.Y.C.R.R. Part 617, holds that such issues need not be analyzed in environmental review of projects that do not pose inherent hazards, such as nuclear facilities.

#### *LABOR STANDARDS*

**Comment G-3:** There is concern regarding contractor and worker standards. I urge both the developer and the community to see to it that this project, whatever its scope, is built utilizing union labor. Union built developments go up safer, go up faster, and are built to better standards. A recent study showed that fully 87 percent of fatal accidents on construction sites in New York City were on non-union sites. Further, union contractors can guarantee a cycle that is as much as seven to ten times faster as some non-union builders. Union workers are properly trained. Members go

through 4,000 hours of training before reaching journey worker status. The result of this is a safer site, a faster built project, and an overall better construction project. DCP should support the ERRC plan with the caveat that the developer adheres to the responsible construction principles developed by the New York City Central Labor Council and currently being negotiated with the Bloomberg administration. (Mason)

**Response G-3:** Comment noted. Construction labor practices are outside the scope of a CEQR analysis.

*OTHER*

**Comment G-4:** There will be problems of aesthetics, lighting, and safety at the 36th street corner location. The EIS stated that this corner was significantly impacted by the car traffic coming off the FDR and the traffic generated by the development. It is a dark area because of the highway overhang and the traffic is controlled by a stop sign. Adding a large building at the corner of 36th Street and East River Drive will make the area darker because it will be in shadows for all of the day. Since 36th Street is a passageway to the ferry across the street, hundreds of passengers pass this spot during the day and evening. This location must have good lighting but a building and highway built virtually on top of each other creates an aesthetic and potential safety problem. Mitigations include repositioning the building away from the site line and towards the center of the lot, implementing a 30-foot easement along the site, or installing a traffic light as recommended by the EIS. (Wyckoff)

**Response G-4:** The intersection referenced by the commentator was analyzed as part of the traffic analysis contained in Chapter 15, "Traffic and Parking." As described in Chapter 16, "Transit and Pedestrians" of the SEIS, this intersection is not a high-accident location. As described in Chapter 23, "Mitigation," the significant adverse traffic impact identified would be mitigated by the installation of a traffic signal.

**COMMENTS RECEIVED ON THE CB6 197-A PLAN**

In parallel with the Proposed Actions, Community Board 6 (CB6)'s proposed 197-a plan is undergoing its own public review. The CPC public hearing on December 5, 2007 was a joint Uniform Land Use Review Procedure (ULURP) hearing on both plans, and a City Environmental Quality Review (CEQR) hearing on the Draft SEIS for the Proposed Actions, too. As a result, a number of comments were made comparing the two proposals. These are not specific comments on the Draft SEIS for the Proposed Actions and, therefore, while they are included below they are not responded to. Other comments that compare the two proposals, but also directly address the contents of the Draft SEIS, are included above and responded to, as appropriate.

- The 197-a plan wisely encourages the construction and preservation of permanent affordable housing throughout the study area. There are few issues more important to my constituents, or to the future of the City as a whole, than the lack of decent housing affordable to low and middle-income residents. Therefore, City Planning must incorporate a significant amount of permanently affordable units, through the use of inclusionary zoning and other creative tools, in every rezoning it contemplates. (Krueger)
- The 197-a plan carefully analyzes the severe shortage of public school facilities within the study area, and strongly encourages the Department of Education to study the feasibility of constructing new schools to meet current and future needs. (Krueger)
- The 197-a plan's recommendations on accessory and public parking garages mirror concerns that the Borough President's office has raised about the City's parking policy. We should make every effort to encourage mass transit usage over car travel in this area. The City should work generally to implement comprehensive analysis and reform of its public and accessory parking garage policies. (Stringer)
- The Community Board's 197-a plan represents an opportunity to put in place a plan that satisfies the needs of both the City and the local community and is a thoughtful, professional effort by a proactive Community Board to think comprehensively about the future of its district. The Community Board's 197-c plan lays out an even more detailed proposal for the site and the blocks surrounding it. (Garodnick)
- The eastern part of Community District 6 is a particularly good candidate for a comprehensive plan that would coordinate the activities of a number of different city agencies. The area is home to major infrastructure as well as large institutions. New development possibilities on this stretch of the East River present a unique opportunity to reclaim the post-industrial waterfront and connect it to the City through a comprehensive plan for waterfront access and open space. And finally, the area is undergoing a major influx of new residents and a significant number of new large-scale development proposals. The proposed 197-a plan provides a framework for consolidating all the ongoing efforts in the eastern part of Community District 6 into one overall vision. It goes well beyond zoning and land use recommendations by articulating a long-range vision for the area that also implicates planning for transportation, parks, and open space and waterfront planning. (Stringer, Krueger)
- The 197-a plan articulates bulk, use, and urban design principles for the development of the former Con Edison First Avenue properties that are shared by all the community's elected officials and are evident in CB6's proposed text and map amendments for the properties. (Stringer)

- The 197-a plan wisely calls for providing day care facilities and public schools in new development in the area. It is important that the City plan in advance for the amenities and neighborhood infrastructure that new development demands. To that end, it may be advisable to require other types of local infrastructure to be sited as development proceeds, such as police, fire, and public utility services. (Stringer)
- The proposed Public Access District in the 197-a plan is an innovative way to meet the community's specific needs through zoning policy. Through bonuses, the Special District would channel development energy to create affordable housing and provide access to the waterfront, two elements that are essential to the preservation and improvement of the East Side community. (Stringer)
- The 197-a recommendations are entirely consistent with the Comprehensive Manhattan Waterfront 197-a Plan adopted by the City Council in 1997, and the 197-a plan's detailed proposals to complete a waterfront esplanade on the East River would further City policy as well as the Borough President's priority of ensuring an entirely walkable rim around Manhattan. (Stringer, Krueger)
- The 197-a plan recommends contextual controls to ensure that development respects the neighborhood's existing street walls and its residential character. This recommendation echoes calls for contextual zoning that are made in neighborhoods in every corner of the borough. As the city grows, the Zoning Resolution must evolve to meet the new challenges that growth represents. (Stringer)
- The 197-a plan articulates a comprehensive long-range vision for the East Side of Manhattan that plans for the continued contextual growth of the area while also balancing the significant infrastructure and service needs of existing and future residents. (Krueger, SAC-Bergin)
- The 197-a plan makes a number of important suggestions to significantly increase the amount of useful, active, and passive public parks and open spaces available to serve residents, workers, and visitors to the area. The plan's emphasis on the fact that the city cannot rely on publicly accessible private open space as mitigation for large-scale developments is particularly important. In recent years, all too many of these spaces have failed to be truly public and accessible. (Krueger)
- While examining the impact that the creation of the long-awaited Second Avenue subway line will have during its construction, the 197-a plan strongly endorses the project and the MTA's proposed locations and it makes a number of important suggestions to improve transfer points with existing subway and bus lines. (Krueger)
- The 197-a plan's recommendations for creating pedestrian bridges (and where possible decking) over the FDR Drive, and studying the

feasibility of eliminating the 42nd Street off-ramp, in order to allow greater access to the waterfront are particularly timely. The imminent reconstruction of the FDR Drive adjacent to the former Con Ed properties, as well as the rezoning of these properties, provide a unique opportunity to both dramatically improve access to the waterfront as well as traffic flow on the highway. (Krueger)

- The 197-a plan's recommendations on accessory and public parking garages, as well as dedicated and safe bicycle routes throughout the study area, mirror those long made by public transportation and bicycle advocates. The city should make every effort to encourage mass transit and bicycle usage over car travel on the East Side and in the city as a whole. (Krueger)
- The 197-a plan presents bulk, use, and urban design guidelines for the redevelopment of the former Con Edison sites that are shared by all the community's elected officials and Borough President Scott Stringer. These guidelines were fully articulated in the 197-c plan recently proposed by CB6, which has been uniformly endorsed by the Borough President and every city, state, and federal elected official representing East Midtown. The rezoning of the former Con Ed properties simply cannot take place separate from the community's larger visions and plans for the area. It is essential that the rezoning of this land follows the principles articulated in the community's 197-a and 197-c plans. (Krueger)
- The 197-a plan carefully analyzes the severe shortage of public school facilities within the study area, and strongly encourages the Department of Education to study the feasibility of constructing new schools to meet current and future needs. (Krueger)
- The Community Board plan suggests alternatives that, if implemented, could go far to enhance the East Side's reputation as an attractive place to live and do business. It balances the need to develop the area with the need for open space. It calls for buildings that are in character with the surroundings and whose shadows don't project over wide swatches of the community. The board's plan envisions a scale of development where the traffic generated can be absorbed reasonably on existing streets and where schools will not be drastically overcrowded. (Mendez)
- CPC should enact the 197-a plan as it provides a comprehensive planning framework not only for the development of the former Con Edison properties but also for the entire eastern half of Manhattan Community District 6. This will serve to strengthen the vitality of the community as well as the quality of life for the present and future residents of the East Side and our City and those who work in and visit our City. (Duane)
- The 197-a plan constitutes a comprehensive planning framework in accordance with stated citywide goals; provides a framework for the development of specific sites; outlines an overall vision; and is an

extension of the Comprehensive Manhattan Waterfront 197-a Plan. The board's 197-c plan sets out a detailed rezoning for the site that is in line with its 197-a framework. (MASPC)

- ERRC's plan should be modified to fit into the community's 197-a plan. (Duane)
- The 400-foot height limit in the 197-a plan was done to show deference to the United Nations complex and the importance of the Secretariat building. So that set a height limit, which obviously has some flexibility. That's why 400 feet was chosen. (CB6)
- The community board's 197-a plan constitutes a comprehensive planning framework in accordance with stated citywide goals, provides a framework for the development of specific sites, outlines an overall vision, and is an extension of the comprehensive Manhattan waterfront 197-a plan. The board's 197-c plan sets out a detailed rezoning for the site that is in line with its 197-a framework. (MASPC)
- We support the community board's 197-a and 197-c plans. (TBA)
- The 197(a) plan is intended to establish the context for the various developments. There is a misunderstanding in some people's minds that the 197(a) plan is put up as a counter to the developer's proposal. That's not the case. We're trying to establish the context for all sorts of development, including the Brookdale campus, which is the next one that we're going to be faced with. So that's the purpose of it. (CB6-West)
- The community board's 197-c plan presents an alternative rezoning scenario for the First Avenue Properties that would enable the construction of a large residential development project on the sites, while preventing many of the negative impacts of the ERRC's proposal and providing numerous benefits to the community. Many aspects of this alternative plan were studied in the Draft SEIS conducted for the ERRC proposal and, as such, are considered "in scope" and can be implemented in the rezoning process. (Krueger)
- As a result of the tremendous commitment, creativity, and expertise of CB6 and ESRA, their 197-a plan articulates a comprehensive long-range vision for the East Side of Manhattan that plans for the continued contextual growth of the area while also balancing the significant infrastructure and service needs of existing and future residents. (Krueger)
- CB6 created detailed proposals in its 197-a and 197-c plans to substantially improve pedestrian access to the waterfront and complete the long-planned waterfront esplanade along the East River. These proposals include the construction of pedestrian bridges and decks over the FDR Drive, the remapping of the streets on the former Con Ed sites, and locating public open space along the waterfront adjacent to, instead of between, the new towers on the property. These proposals would dramatically improve the

quality of life on the East Side by providing direct, physical access to the waterfront, and would significantly further the city's long-stated goal of creating a walkable rim around the island. (Krueger)

- The community's plan is consistent with the Comprehensive Manhattan Waterfront 197-a Plan adopted by the City Council in 1997 and the Department of City Planning's 2004 Manhattan Waterfront Greenway Plan. Waterfront open space would receive substantially more sunlight since it would not be surrounded by large towers, and would likely feel much more public than space sandwiched between private buildings. (Krueger)
- The 197-c Plan submitted by CB6 is based upon the Board's 197-a Plan. It certainly allows for significant development and it outlines the most suitable ways to address the area's needs. Indeed, the SEIS acknowledges in its executive summary that the CB6 Alternative "would be compatible with surrounding land uses and densities, and its proposed zoning changes would not result in impacts" (S-63). (Duane)
- In an area with such a dearth of public parkland, every conceivable possibility for open space must be explored thoroughly, including the plan's suggestion for decks over the Queens Midtown tunnel portals and incorporating parkland into the reconstruction of the FDR Drive. (Stringer)
- The plan's goal of maintaining and restoring the city street grid, and its goal of preserving Peter Cooper Village and Stuyvesant Town, are related. Large superblocks derive a benefit from demapped streets, which give sites distorted development potential. In addition to landmarking and the Special Planned Community Preservation District designation, the City and the 197-a plan proponents should be open to new and creative policy proposals that could provide public oversight over development on superblocks. (Stringer)
- The 197-a and 197-c plans submitted by CB6 are superb documents that reflect longstanding principles and a deep knowledge and understanding of local issues. The ERRC plan would be significantly improved if it is changed to more closely reflect the CB6 planning documents, especially with regard to the extension of the street grid, the creation of waterfront open space, the overall density, and other aspects. (MAS)
- CB6 has, in its 197-a plan for the eastern half of the Community District, and in its detailed 197-c zoning proposal for the subject properties, articulated a plan for how significant high-density development could be achieved at this site while still meeting City-wide and community planning goals. Their proactive planning is the type of community-based planning the Borough President has sought to encourage in Manhattan Community Boards. The Community Board's plan also accepts a maximum FAR of 10, but with streets remapped, primarily residential development, limited

**First Avenue Properties Rezoning Final SEIS**

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parking, height limits, and maximum FAR achieved only through inclusionary housing or provisions for waterfront access. The plan contemplates the provision of public open space off-site, in a waterfront esplanade reachable through decks or bridges over the FDR Drive. The success of this open space plan would require a small easement be provided onto the Applicant's property to allow relocation of the FDR Drive, and for the public access through the properties to be assured. (Stringer)

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