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Testimony of City Councilwoman Rosie Mendez

August 13, 2008

City Planning Commission Hearing on East Village/Lower East Side Rezoning

Good morning ladies and gentlemen. My name is Rosie Mendez, City Councilwoman in District 2. Approximately 70% of the area included in the zoning proposal being considered today falls within my council district. I have been involved in the community planning process that lead to this matter since before I was elected to this office. I am convinced that the expeditious adoption of zoning modifications for this community is urgently important to stem the overdevelopment and disappearance of affordable housing here. I believe that the adoption of a zoning plan which leaves the community with the right balance of development, preservation, and tenant protections is one of the most pressing responsibilities that will confront me during my tenure in the City Council.

This hearing occurs approximately 7 years after CB #3 began to focus on how the current antiquated zoning of this community was allowing overdevelopment without encouraging affordable housing. CB #3 established a rezoning subcommittee and held community forums on the subject beginning in 2002. About three years ago, under the leadership of then CB #3 Chairman David McWater, the Department of City Planning (DCP) acknowledged the community's concerns and agreed to undertake a 197c plan in consultation with the Board. I believe that the community participation and government cooperation that has fostered this plan has been unprecedented and noteworthy.

Over the years DCP has shown a willingness to accommodate many of the issues raised by CB#3 and the Lower East Side Coalition for Accountable Zoning (LESCAZ), a group of community residents and organizations established two years ago to advocate for necessary modifications to the DCP plan. All the parties agree on broad objectives such as contextual districts, height caps, affordable housing and the elimination of the community facility bonus. Specific modifications that DCP has been willing to incorporate include the removal of a commercial overlay on St. Marks Place, the lowering of the density of several blocks directly south of Tompkins Square Park, and more recently the elimination of the text amendment concerning commercial discontinuance and the expansion of inclusionary zoning districts. I commend all concerned for their serious consideration of the complicated issues involved in this very ambitious rezoning plan and their intelligent and reasoned approach to solving difficult problems.

I join LESCAZ and CB #3 in supporting the plan, but like both groups, I want very much to see additional modifications and ancillary actions that will provide for a better balance of all of the sometimes contravening goals and consequences of this zoning effort. We have come far together. I am

very hopeful that during the last few months of the ULURP process we can reach full consensus on the remaining areas of disagreement so that I can finally vote to support it and recommend to my colleagues that they do the same, when it comes to a vote at the City Council. Let me describe two areas where I believe much more must be done to assure that the plan accomplishes our mutual objectives.

Probably the most glaring difference between the DCP plan and the community's is the degree to which each achieves the goal of providing affordable housing. Even after the recent and much appreciated addition of inclusionary zoning districts on all but one of the avenues above Houston Street and on Christie Street, the proposed plan only calls for inclusionary zoning to be mapped in approximately 20% of the affected area and anticipates the development of a mere 456 units of affordable housing. I calculate that to be approximately 8% of the units projected to be built. On the other hand, the community plan which I strongly support calls for an upfront goal of 30% affordable housing. If DEIS's projections of development are accurate, that would require the development of about 1,600 low income units. We therefore fall over 1000 units short of the community's goal.

I believe that the City of New York must make up for the shortfall of affordable units by building them on city owned land. Other recently approved zoning plans for Manhattan neighborhoods have mandated the development of subsidized housing in this way, and this community which has suffered tremendous losses of affordable housing should not be treated differently. I am eager to work with the all relevant agencies of the city administration (HPD, EDC and NYCHA included) to identify appropriate sites for the development of additional low income housing. Although such opportunities are not abundant in this area, I believe that there are several sites where creative thinking about underutilized and vacant land coupled with bold leadership would go far to meeting the community's demand.

Also, because recent and long passed due changes to 421a legislation establish a strong tax incentive to build 20% affordable housing in new construction in this community, I firmly believe that the inclusionary zoning implemented here should require a higher percentage of affordable units to also take advantage of a density bonus. I believe that this community is uniquely suited to developing a more aggressive income mix through inclusion. Income integration has characterized this neighborhood for decades, and the diversity of the community is one of the features that actually attracts people here in the first place. I would like to see modifications made to either the zoning requirements or to the 421a legislation that would mandate a higher percentage of affordable housing when utilizing both incentives.

The second major deficiency of the current proposal is that it does not directly address the critical issue of tenant displacement that is already a tremendous problem in this community, even before any density bonuses are superimposed. The proposal does not include anti-harassment or anti-demolition provisions nor does it provide for a legal services fund to assist tenants threatened with eviction. Again, other historic and recently passed zoning changes for Manhattan communities have recognized that provisions such as this are imperative to maintain the stability of gentrifying neighborhoods. It would be a travesty if the Lower East Side – arguably the neighborhood in New York City with the longest and richest history of serving low income immigrant families – would be left without these basic protections.

The DEIS states that tenement buildings are not included as potential sites because tenant protections prevent these buildings from being cleared. Although that is the intention of such protections, every day in my office we get a call from a rent regulated tenant who is being forced out of his or her home either lawfully or unlawfully to make way for development. Just yesterday I convened a rally on the steps of City Hall against new Rent Stabilization Code regulations which would allow a landlord to evict a tenant upon notification of the intent to gut rehab his/her building.

At the very least, the protective provision included in the Clinton Special District (CSD) should be added to this plan. The demolition of existing buildings containing residential uses should be prohibited in a manner similar to the requirements of §96-23 and 96-108 of that district. Also, this plan should include a provision that a certificate of no harassment must be submitted before a permit is secured for any building alteration, enlargement or new construction (§96-108 and 96-109 of the CSD).

Lastly, especially now after the devastating New York City FY 2009 budget cuts came down particularly hard on legal service and legal aid groups throughout the City, we must create a fund similar to the one that exists in other communities, where low-income tenants facing harassment or eviction have access to legal counsel in order to adequately defend their homes.

So, in conclusion I want to thank Director Burden, the Commissioners, and DCP staff for the tremendous effort you have all put in to working with the community to develop a plan that is a giant first step toward dealing with many of our development issues. I am convinced that this proposal presents a strong foundation for an agreement that will greatly benefit this neighborhood. I look forward to developing a consensus on the outstanding items during the final months of the ULURP process up until the time of the City Council vote. Thank you for the opportunity to speak.