



CITY PLANNING COMMISSION

November 28, 2001/ Calendar No. 2

C 010548 ZSM

IN THE MATTER OF an application submitted by the Memorial Sloan-Kettering Cancer Center pursuant to Sections 197-c and 201 of the New York City Charter **for the grant of a special permit pursuant to Section 79-43 of the Zoning Resolution** to allow the modification of the height and setback regulations along a portion of the south side of East 69th Street on the periphery of a large-scale community facility development, generally bounded by East 69th Street, York Avenue, East 66th Street, and First Avenue (Block 1461, Lots 13 and 21, Block 1462, Lots 1 and 5, and Block 1463, Lots 5 and 11), in an R9 District, Borough of Manhattan, Community District 8.

The application for the special permit was filed by the Memorial Sloan-Kettering Cancer Center on March 30, 2001, to facilitate the proposed expansion of its facilities within its campus located between East 66th and East 69th streets, and First and York avenues. A revised application was submitted on November 16, 2001, to reduce the extent of the waivers of the bulk modifications and the rezoning boundaries.

RELATED ACTIONS

In addition to the special permit, which is the subject of this report, implementation of the proposed development also requires action by the City Planning Commission on the following applications which are being considered concurrently with this application:

1. C 010548 ZSM: **Zoning Map Amendment** to rezone the midblocks between East 66th and East 69th streets, between First and York avenues, from an R8 zoning district to an R9 zoning district.
2. N 010549 ZAM **Authorization** pursuant to section 79-21 to modify height and setback requirements along East 68th Street; and distribution of floor area without regard to zoning lot lines.

BACKGROUND

The Memorial Sloane-Kettering Cancer Center (MSKCC) campus is located between East 66th and East 69th streets between First and York avenues. The campus consists of three blocks: the

north, main and south blocks.

The north campus block occupies the midblock portion of the block bounded by East 68th and East 69th streets (Block 1463, Lots 5, 11). The zoning lot within the north block contains an existing research facility, Kettering Research Laboratory, and the St. Catherine's Church and rectory. The main campus block occupies the full block between East 67th and East 68th streets and between First and York avenues (Block 1462, Lots 1, 5). It contains several buildings including the Schwartz Building, the Howard Building, the Bobst Building, the Enid A. Haupt Pavilion and the Radiation Oncology Building, which provide research, diagnostic and treatment facilities. In addition it contains the 431-bed Memorial Hospital, providing inpatient care, and the Winston Surgical Pavilion, providing ambulatory care facilities. The south campus block occupies the eastern half of the block between East 66th and East 67th streets and York Avenue (Block 1461, Lots 13, 21). It provides laboratory facilities in the Rockefeller Research Laboratory, and staff housing and offices in the Scholars Residence and Sloan House.

The remaining portion of the north and south blocks, that are not part of the MSKCC campus, also have uses that are not affiliated with MSKCC. The eastern portion of the north block, between East 68th and East 69th streets and along York Avenue, is developed with community facility uses such as three housing for New York Presbyterian Hospital-Cornell Medical Center (NYPH) staff (Block 1463, lots 21, and 31). The western portion of the north block, along First Avenue, is developed with low-rise walk-up apartment buildings with ground floor retail (Block 1463, lots 1, 3, 45, 47, and 48). The western portion of the south block, between East 66th and East 67th streets and along First Avenue, is developed with community facility uses including PS 183, St. John of Nepomucene school and rectory, and Bethany Memorial Church (Block 1461, Lot 7, 1, and 45).

The campus is located in an area of Community District 8 that is characterized by community facility uses, many of which are affiliated with MSKCC. To the east of York Avenue between East 63rd and East 72nd streets are the campuses of Rockefeller University (RU) and NYPH, and

the Hospital for Special Surgery (HSS). The buildings in these community facilities range from 4- to 38-stories. The international headquarters for Sotheby's auction house is also located at the eastern corner of York Avenue and East 72nd Street. On the blocks to the south of MSKCC, between East 63rd and East 66th streets, there is a mix of 5-story walk ups and 6- to 13-story apartment buildings in the midblocks and 6- to 18-story apartment buildings along York Avenue. To the north of the campus, between East 69th and East 71st streets, there is a mix of 5- to 6-story and 10- to 35-story buildings which primarily provide housing and related office use for NYPH. The 35-story Mary Manning Walsh Nursing Home is along York Avenue between East 71st and 72nd streets and high-rise apartment buildings are found along East 72nd Street. The frontage of First Avenue between East 63rd and East 72nd streets primarily consists of 5-to 6-story walk-ups and high-rise apartment buildings with ground floor retail interspersed with community facilities. The city-owned St. Catharine's Park is located between East 67th and East 68th streets, west of First Avenue.

Existing Zoning

The area is primarily zoned for residential and community facility uses. Generally, frontages along York and First avenues to a depth of 100 feet between East 63rd and East 72nd streets are zoned R10 and commercial equivalent which permits a base FAR of 10.0 for both residential and community facility uses. In addition, the frontage of First Avenue between East 63rd and East 71st streets, zoned C1-9 and C2-8, permits local retail use up to 2.0 FAR. From 100 feet east of York Avenue, between East 63rd and East 72nd streets, the area is zoned R9, which permits an FAR of 7.52 for residential use and 10.0 for community facility use. The midblocks between East 66th to East 71st streets and East 62nd to East 63rd streets are zoned R8, which permits 6.02 FAR for residential use and 6.5 FAR for community facility use. The remaining midblocks to the south and north are zoned R8B, which permits 4.0 FAR for residential use and 5.1 FAR for community facility use in Manhattan Community District 8.

Portions of the MSKCC campus fronting York Avenue between East 66th and East 68th streets is zoned R10 and along First Avenue between East 67th and East 68th streets is zoned C1-9. The

area proposed to be rezoned is located in the midblocks, 100 feet east and west of First and York avenues, respectively, between East 66th and East 69th streets and is zoned R8.

Proposed Project

MSKCC has been in existence since 1939, and covers approximately 243,710 square feet of lot area (approximately 5.6 acres). Over the past six decades, the campus has grown incrementally through demolition, renovation and enlargement of existing facilities. During this period, several Board of Standards and Appeals (BSA) variances were granted for individual buildings to modify the lot coverage requirements. The permitted floor area on the campus is 1,794, 980 square feet. Except for the north campus block, the main and south campus blocks are overbuilt. Currently, 145,390 square feet of floor area is available for development on the campus.

MSKCC has stated a need for additional space to achieve its future development plan. The development is planned in two phases. In Phase I, MSKCC would construct a new research facility on the north campus block by 2007. In Phase II, MSKCC would carry out its long-term goals, including the enlargement and construction of inpatient rooms; ambulatory care facilities; diagnostic and treatment facilities; office and administrative; and a hotel and residences. Phase II development would be completed by 2011 and occur on the main and south campus blocks. To facilitate this development, MSKCC would also need swing space on an interim basis.

Phase I Development Plan

New Research Facility: MSKCC is proposing to develop a state-of-the-art “bench-to-bed” new research facility on the north campus block. The development site is an ‘L’-shaped through-lot site consisting of 60,350 square feet of lot area. It currently consists of St. Catherine’s Church and rectory, and Kettering Research Laboratory. The site has frontage of approximately 363 feet on East 68th Street and approximately 238 feet on East 69th streets. St. Catherine’s Church and rectory is located on the western portion of the site, occupying 14,600 square feet of lot area. The church has 9,800 square feet of floor area and is accessible from both East 68th and East 69th streets. The three-story rectory has 10,390 square feet of floor area and is located along East 68th

Street. The 11-story Kettering Research Laboratory is located along East 68th Street and occupies 20,000 square feet of lot area. The existing laboratory contains 185,210 square feet of floor area. The remaining portion of the development site, 25,750 square feet, is vacant.

The new research facility would be located to the east of the church, covering approximately 35,100 square feet of lot area. It would require demolition of both the rectory and Kettering Laboratory. The construction of the new research facility would be done in stages. Due to the lack of adequate research facilities within the campus, MSKCC would continue to utilize the existing research facility until the new facility is completed and ready for occupancy. In the first stage of construction, the rectory would be demolished and temporarily located in the vicinity. This would allow for the construction of a 23-story through-lot building. It would include a significant portion of the new research facility - approximately 288 wet lab bench modules (18 per floor) with support and office spaces, conference rooms, three mechanical floors and space for the rectory. In the second stage of construction, the Kettering Laboratory would be demolished after relocating its research activities to the new facility. This would allow for the construction of the remaining portion of the new research facility along East 68th Street. It would contain a 7-story building which would provide dry labs, an auditorium, and conference rooms.

The proposed development would contain up to 510,400 square feet of research spaces and a rectory. The building would be oriented in a north/south direction with its main entrance on East 68th Street, and secondary service entrances with two off-street enclosed loading bays on East 69th Street. The rectory would occupy portions of three floors with approximately 18,480 square feet of floor area.

As certified, the first phase of the research facility would be 23-stories, including the mechanical floors which would reach a height of 390 feet. Three mechanical floors on floors eight, nine and twenty-three would be provided. The mechanical bulkhead and stacks would be located above the last mechanical floor and located along the western portion of the research facility. The parapet wall enclosing the mechanical bulkheads would reach a height of approximately 420 feet,

and the stacks would reach a height of 440 feet both along East 68th and East 69th streets. The second phase of the research building would be 7-stories, and including mechanical space would be 141 feet in height. The building, located along East 68th Street, would rise to a height of 107 feet without setback and 141 feet with a setback of 10 feet.

Phase II Development Plan

Inpatient Rooms: MSKCC is proposing to replace its 27-year old Memorial Hospital, located on the main campus block as part of its long term plan. The Hospital, licensed for 565 beds, currently operates 431-beds, and has limited outpatient care and administrative offices. The proposed replacement would provide single rooms for patients instead of two beds per room and would increase the number of beds in operation to 561 beds.

Ambulatory & Outpatient Care: Due to the lack of necessary space in the campus, MSKCC's ambulatory care and outpatient facilities are not located entirely within the campus. Except for one facility, Winston Surgical Pavilion, located on the main campus block, all other four facilities are located outside the MSKCC campus. To meet its ambulatory care needs, the applicant would need to consolidate its ambulatory care facilities in a new location. To simplify access for patients, MSKCC may consider consolidating all the outpatient facilities to the main campus block.

Diagnostic & Treatment Facilities: Currently these facilities are located throughout the main campus block, including the Schwartz and Howard buildings, and satellite facilities. Short-term upgrades are currently underway in these buildings to accommodate new technology. However, both the space and age of the existing buildings would require significant renovation or construction of a new building in the future. In addition, future refinements in the development of radiation oncology may require significant renovation or construction of new buildings on the main campus block.

Office & Administrative: These functions are currently located throughout the campus,

including the Schwartz and Howard buildings on the main campus block; Sloan House and Scholars Residence on the south campus block; and off campus sites. To accommodate direct clinical care and laboratory research spaces, administrative functions are relocated to off-site locations. MSKCC considers it an essential part of the long-term plan to locate new offices in the campus.

Hotel & Residences: MSKCC's patients come from all over the country and world. Many of the patients are accompanied by their families and need housing during their stay. There are limited hotels in the immediate neighborhood. In order to maintain its competitive position with other institutions, MSKCC proposes a long-term hotel use on the south block. Currently, the staff members with on-call responsibilities reside in Sloan House and Scholars Residence on the south campus block. MSKCC would consider providing housing for those staff with on-call responsibilities, post-doctoral fellows and other key personnel with scientific and clinical responsibilities to stay on the south campus block in the long-term.

Phase II development is based on current expectations and is subject to change.

REQUESTED ACTIONS

As certified, to facilitate its development plan, MSKCC requested the following actions from the City Planning Commission:

1. A zoning map amendment (C 010547 ZMM) to rezone the midblock portion of its campus located between East 66th and East 69th streets and between First and York avenues from an R8 district to an R9 district.
2. A special permit (C 010548 ZSM) to modify height and setback requirements along East 69th Street which is a peripheral street pursuant to Section 79-43; and
3. Authorization (N 010549 ZAM) to modify height and setback requirements along East 68th Street which is an internal street to the large-scale community facility development (LSCFD); and distribute up to 100,000 square feet of floor area, without regard to zoning

lot lines, from the north campus block to the main campus block pursuant to Section 79-21.

Zoning Map Amendment

As certified, MSKCC proposed a rezoning of the midblocks between East 66th and East 69th streets from an R8 district to an R9 district. An R8 district permits a community facility FAR of 6.5 and residential FAR of 6.02, while an R9 district permits a community facility FAR of 10.0 and residential FAR of 7.52. Approximately 183,460 square feet of MSKCC's total lot area (243,710 square feet) is located in the midblock. The remaining midblock area, 65,190 square feet, is occupied by other non-MSKCC affiliated community facility uses. The existing R8 district permits a community facility floor area of 1,192,497 square feet and a residential floor area of 1,104,430 square feet in the midblocks occupied by MSKCC. In the portions of the midblocks not occupied by MSKCC, the existing zoning permits 423,735 square feet of community facility floor area and 392,440 square feet of residential floor area.

As certified, the proposed rezoning to an R9 district would have increased the permitted community facility floor area to 1,834,610 square feet and the permitted residential floor area to 1,379,627 square feet in the midblocks occupied by MSKCC. In the portions of the midblocks not occupied by MSKCC, the proposed community facility floor area would have increased to 651,900 square feet and the residential floor area would have increased to 490,230 square feet. The total community facility floor area allowed on the MSKCC-occupied portions of the three midblocks would have increased to 2,437,108 square feet from 1,794,981 square feet.

North Campus Block: The lot area on this block, 60,350 square feet, is in an R8 district. With the proposed rezoning, the community facility floor area would increase from 392,275 square feet to 603,500 square feet and allow up to 510,390 square feet for development of the proposed new research facility.

Main Campus Block: The lot area on this block is 123,110 square feet, of which 82,944 square

feet is in the R8 district in the midblock. The proposed rezoning to an R9 district would increase the permitted community facility floor area on the midblock portion from 539,130 square feet to 829,440 square feet. The total community facility floor area allowed on the main campus block would increase from 940,790 square feet to 1,231,100 square feet. The increased floor area would facilitate enlargement and construction of new facilities including, diagnostic and treatment center; inpatient rooms; and outpatient care facilities.

South Campus Block: The lot area in this block is 60,250 square feet of which 40,167 square feet is located in the R8-zoned midblock. As certified, the proposed rezoning of the midblock would have increased the permitted community facility floor area on the midblock from 261,086 square feet to 401,670 square feet. The total community facility floor area on the south campus block would have increased from 476,758 square feet to 602,500 square feet.

Remaining Rezoning Area: There are five other zoning lots that would be affected by the proposed rezoning, as certified. The sites are developed with community facility uses. In the northeastern portion of the north block between East 68th and East 69th streets there is approximately 22,590 square feet of lot area to be rezoned. It is developed with three staff housing for NYPH. The proposed R9 district would increase the community facility floor area by approximately 79,065 square feet and residential floor area by approximately 33,885 square feet. In the southwestern portion of the south block between East 66th and East 67th streets there is approximately 42,600 square feet of lot area to be rezoned. It is occupied by PS 183, St. John of Nepomucene school and rectory and a portion of Bethany Church. The rezoning would have increased the community facility floor area by 149,100 square feet and residential floor area by approximately 63,900 square feet.

Large-Scale Community Facility Development

The provisions of the LSCFD allow the Commission to modify height and setback regulations and distribute floor area without regard to zoning lot line either by special permit or authorization for a community facility development that occupies at least 3.5 acres. The campus blocks of

MSKCC include multiple zoning lots comprising over 5.5 acres that would be contiguous but for their separation by East 67th and East 68th streets.

Special Permit pursuant to Section 79-43

MSKCC is requesting a special permit (C 010548 ZSM), to modify the required height and setbacks along East 69th Street, a peripheral street of the LSCFD, to facilitate the 23-story research facility on the north campus block. The new research facility would be built to the street line. As certified, the applicant proposed a building envelope that would reach a maximum height of 440 from East 69th Street without setting back and would penetrate the sky exposure plane. The proposed envelope would contain twenty-three floors including three mechanical floors, which would have reached a height of 390 feet; the parapet wall enclosing the mechanical bulkheads would have reached a height of 420 feet; and the stacks would have risen to 440 feet. Pursuant to Section 24-522, a community facility use in an R9 district is required to setback by 20 feet along a narrow street at the vertical height of 85 feet and be within the permitted sky exposure plane of 2.7 to 1. The proposed research facility would have had a continuous streetwall height of 420 feet, to the top of the parapet wall, along East 69th Street, without any required setback.

MSKCC has stated that it needs to provide the maximum number of “bench-to-bed” state-of-the-art wet and dry lab bench modules within its campus. The programmatic requirements for such a facility call for: 16 floors for wet labs at a minimum; 18 lab bench modules per floor, with a minimum width of 10'-6" per module. Further, each floor containing lab bench modules needs to be situated in close proximity to core labs, lab support space and administrative office. A typical floor layout would have 18 lab bench modules, located along the western end of the building; office spaces for scientist and administrative staff and conference room, along the eastern end of the building; and core lab and support spaces in the middle. To accommodate this desired layout, the applicant is proposing a typical lab floor plate of 197 feet in length and 122 feet in width. As certified, the proposed floor-to-floor height for these modules was 16 feet. According to the applicant, the required height and setback would result in a building without an efficient floor

plate, undermining the programmatic needs of the facility. The proposed massing of the building responds to the required lab bench module and the typical floor plate. The proposed height and setback modifications is intended to meet MSKCC's programmatic need for research space and facilitate the necessary configuration of the building.

Authorization pursuant to Section 79-21

(i) Modification of height and setback: The proposed new research facility would also require modification of height and setback along East 68th Street, an internal street of the LSCFD, in a manner similar to the request to modify the height and setback requirements along East 69th Street under the special permit. The new research facility had a building envelope that would have reached a height of 440 feet without setting back by 20 feet at the vertical height of 85 feet. The envelope included twenty-three floors including three mechanical floors, which would have reached a height of 390 feet; the mechanical bulkheads enclosed by a parapet wall would have reached a height 420 feet; and the stacks would have reached 440 feet along East 68th Street. In addition, the proposed 7-story addition to the new research facility located along East 68th Street also requires height and setback modifications. The 7-story addition would have a streetwall height of 140 feet including the mechanical floors and bulkhead, without a set back at the vertical height of 85 feet, as required.

(ii) Distribution of floor area without regard to the zoning lot line: MSKCC is requesting permission to distribute of up to 100,000 square feet of floor area from the north campus block to the main campus block in order to facilitate the Phase II of the development plan. Of the 603,500 square feet of permitted floor area on the north campus block, the new research facility and the existing church would utilize up to 520,200 square feet of floor area. This would allow a distribution of 83,300 square feet of unused floor area, and up to 100,000 square feet if there were a reduction in the floor area of the proposed research building. The floor area up to 100,000 square feet, would be used on the main campus block, increasing its permitted floor area from 1,231,110 square feet up to a maximum of 1,331,110 square feet. The proposed distribution would facilitate the Phase II development plan of MSKCC.

Revised Applications

The applicant revised the applications on November 16, 2001. The applicant has revised the zoning map amendment by eliminating the midblock on the south block, between East 66th and East 67th streets, from the proposed rezoning thereby retaining the existing R8 district. Under the revised application, only the midblocks between East 67th and East 69th streets would be rezoned from an R8 district to an R9 district. MSKCC also revised the requested height and setback modifications for the new research building on the north campus block. Under the revised special permit and authorization applications pursuant to Sections 79-43 and 79-21, respectively, the proposed building envelope of the new research facility would be reduced from 440 feet to 420 feet.

Other Actions

In conjunction with the above mentioned actions, MSKCC is also requesting two variances and a special permit (BSA No.130-01BZ) from the Board of Standards and Appeals (BSA). The variances would waive the maximum permitted lot coverage (Section 24-11) and rear yard equivalent requirements (Section 24-382) as required in an R9 district, in order to facilitate the proposed new research facility on the north campus block. In addition, MSKCC is seeking a special permit pursuant to Section 73-642 for a failure to comply with the R9 district floor area regulations when the new research building would be completed and the Kettering Laboratory has not yet been demolished. The site would temporarily exceed the R9 permitted floor area.

ENVIRONMENTAL REVIEW

This application (C 010548 ZSM), in conjunction with the applications for the related actions (C 010547 ZMM, and N 010549 ZAM) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91

of 1977. The designated CEQR number is 01DCP050M. The lead agency is the City Planning Commission. The City Planning Commission conducted a co-ordinated environmental review with the Board of Standards and Appeals, in connection with the BSA's review of the special permit and variance requests discussed above.

It was determined that the proposed actions may have a significant effect on the environment and that an environmental impact statement would be required for the following reasons:

1. The proposed action would affect existing land use and zoning patterns by permitting a large scale community facility development in an area currently developed with residential and community facility development.
2. The proposed action could result in the development of new and enlarged hospital facilities in an area where the proposed density and bulk configuration is not currently permitted. This has the potential to alter demographic patterns and conditions in the local real estate market.
3. The proposed action could result in the development of new and enlarged hospital facilities which would introduce a significant number of new workers to the area, potentially affecting the ability of the police and fire protection services to accommodate demand, and would introduce a new population which could increase demand on other community facilities.
4. The proposed action would introduce a significant new worker population which would place additional demands on available open space resources.
5. The proposed action would permit construction of new buildings which could exceed the 50-foot threshold identified in the *CEQR Technical Manual* as warranting an assessment of potential shadow impacts.
6. The proposed action would induce new construction, which could result in soil disturbance in archaeologically sensitive portions of the affected area, and could affect the context of existing historic structures in the area.
7. The proposed action would facilitate the development of buildings whose height and bulk could affect urban design elements and visual resources in the affected area.
8. The proposed action would result in new and enlarged hospital facilities

which could alter existing neighborhood character by affecting urban design, noise, traffic, socioeconomic conditions, and historic resources.

9. The proposed action would permit new and enlarged hospital facilities on a site occupied by medical laboratories and other past uses which may have resulted in contamination of soil and groundwater, possibly exposing construction workers and others to hazardous materials.
10. The proposed action would induce new development which could place additional demands on infrastructure.
11. The proposed action would induce new development which would result in the generation of solid waste and which would require sanitation services.
12. The proposed action would induce new development which would increase demand for energy in the affected area.
13. The proposed action would induce new development which would result in additional vehicular, pedestrian, and transit trips and additional parking demand in the vicinity of the affected area.
14. The proposed action would induce new and enlarged hospital facilities which would result in increased mobile source (vehicular) and stationary source (HVAC system) emissions.
15. The proposed action would introduce new sensitive receptors into an area which may be characterized by high ambient noise levels, and would induce new and enlarged hospital facilities which would result in additional mobile-source noise.
16. The action would induce new development, which would involve demolition and construction activities which may result in construction-related impacts.

A Positive Declaration was issued on April 24, 2001, and distributed, published and filed, and the applicant was asked to prepare or to have prepared a Draft Environmental Impact Statement (DEIS).

The applicant prepared a DEIS and a Notice of Completion for the DEIS was issued on June 1,

2000. Pursuant to SEQRA regulations and the CEQR procedures, a joint public hearing was held on the DEIS on October 10, 2001, and a continued public hearing was held on October 12, 2001, in conjunction with public hearings on the related Uniform Land Use Procedure (ULURP) item(s) (C 010547 ZMM and N 010549 ZAM). Subsequent to the issuance of the DEIS, the applicant revised the zoning map amendment by eliminating the midblock on south block, between East 66th and East 67th streets from rezoning and retaining the existing R8 district. Under the revised application, only the midblocks between East 67th and East 69th streets would be rezoned from an R8 district to an R9 district. MSKCC has also revised the height and setback waiver to facilitate the new research building on the north block. Under the revised special permit and authorization applications pursuant to Sections 79-43 and 79-21, respectively, the proposed building envelope of the new research facility is reduced from 440 feet to 420 feet. The Final Environmental Impact Statement (FEIS) was issued on November 16, 2001. The Notice of Completion for the FEIS identified the following potential significant adverse impacts, as well as mitigation measures to address these impacts:

Significant Adverse Impacts

Open Space and Recreational Facilities: Overall, the proposed actions are not anticipated to have significant adverse impacts on open space resources in the area in 2007; however, with the increased population and shadows from development on the main campus block in 2011, the analysis indicates that the proposed actions would have an adverse impact on open space.

The proposed research building, which is expected to be complete by 2007, would add an estimated 548 daytime workers to the area, while potential community facility and residential expansion on other lots in the north block could add up to 97 workers to the area, resulting in a 1.8 percent decrease in the worker open space ratio, or a decrease of less than 0.01 acres of passive open space per 1,000 workers. The residential expansions that could result from the proposed rezoning would add approximately 53 residents to the study area, resulting in a 0.9 percent decrease in the overall passive open space ratio. For users as a whole, the proposed research building is not likely to have a significant effect on passive open space in the study area in 2007.

The remaining anticipated development in the rezoning area expected by 2011 would decrease the worker open space ratio by 3.5 percent, a decrease of less than 0.01 acres of passive open space per 1,000 workers. There would be a 1.7 percent decrease in the overall passive open space ratio, a decrease of less than 0.01 acres per 1,000 residents and workers.

The quantitative analysis indicates that the proposed actions could have a significant adverse impact on daytime workers' use of passive open space in the study area in 2011. The negative effects from this

reduction in the passive open space ratio also would be exacerbated by shadows cast on open space resources from the proposed research building and other potential development on the main campus block of the MSKCC campus. There are no available mitigation measures and this results in an unavoidable adverse impact (see below, “Unavoidable Adverse Impacts”).

Shadows: Due to its height and bulk, the proposed research building would increase the shadows on St. Catherine’s Park in the early morning. At their greatest extent, these increases would be substantial; however, at most times they would be less substantial. This increase would be of limited duration and by 9:30 AM Eastern Standard Time (EST) the building’s shadow would be off the park. While a large part of the park is in shadow at the beginning of the analysis period on all analysis days (except December when there is no increment) this is very early in the morning when the park is much less likely to be used for passive recreation, for which sunlight would be most appreciated. In warmer months, leaves on the tall trees of the park already cast ample shade.

The incremental increase in shadows on the public plaza on York Avenue between 70th and 71st Streets is not considered significant because it would only fall on a small portion of the plaza for a short time in the spring, fall, and winter.

Since the proposed project would be built adjacent to the east side of St. Catherine’s Church, there would also be an increase in shadows on its east facade. Measures to mitigate this impact are discussed below, under “Mitigation.”

With full development assumed for 2011, there would also be an increase in shadows from the tower in the main campus block. It would be offset by a decrease in shadows due to the base of the building on First Avenue being shorter than the current building. The increment from the tower would cover large portions of the park in the mid-morning and extend the duration of the shadow increment from the proposed actions to as late as 11:00 AM (12 Noon) in March/September and May/August. By midday there would be no new shadows from MSKCC buildings on this park in any season.

Overall, there are increases in morning shadows on St. Catherine’s Park in the spring, summer, and fall. On cooler days this could lessen the enjoyment of park users, especially passive users of the open space. On the coolest days in the winter when users would most appreciate the sun, the MSKCC development would not increase the shadow on St. Catherine’s Park. In terms of vegetation, the trees are unlikely to be affected as they receive ample sunlight over the course of the day. The other plantings, such as daffodils, are seasonal. As the shadow of the project moves quickly across the expanse of the park, it is unlikely that they would be affected by diminished light during in the growing season.

Historic Resources (Architectural Resources): Construction of the proposed research building could potentially cause damage to St. Catherine’s Church as it is located immediately west of the project site. Measures that would mitigate this impact are discussed below, under “Mitigation.”

The increase in shadows on the stained-glass windows of St. Catherine’s Church has the potential to create a significant adverse impact on historic resources. Measures that would mitigate this impact are discussed below, under “Mitigation.”

Urban Design and Visual Resources: By 2007, new development on the north block would change the character of the project site by introducing a modern research building and new activity to the site. The

proposed research building would be built to the sidewalk and would have a much greater presence at the streetwalls of East 68th and 69th Streets. The main entrance to the proposed research building on East 68th Street would maintain the linkage to the central MSKCC campus block. An additional entrance would be provided on East 69th Street. As currently contemplated, the facade of the proposed research building would be composed of glass and metal with a masonry base, and thus would be quite different from the extant masonry buildings on the project site. However, the masonry base would relate in scale, color, and texture to the adjacent St. Catherine's Church. The currently contemplated design of the building would also acknowledge the adjacency of the church through the use of a linear courtyard separating the two buildings. The transparent, glass-enclosed entrances of the proposed research building would visually link its interior with the exterior, enlivening the adjacent streets by day as well as by night.

At approximately 420 feet, the building to be constructed by the proposed project would be considerably taller than the existing buildings on the site. The north-south orientation of the building would differ from the norm, as midblock sites are typically occupied by tenements or mid-size, east-west oriented apartment buildings, (approximately 104 to 219 feet tall) set back slightly from the streetline. This orientation would serve to minimize the building's appearance along East 68th and 69th Streets, although the long side of the building would be more visible in the distance, particularly from the west. The lower portion of the building on East 68th Street would be shorter than the existing Kettering Building and its scale would be more in keeping with that of surrounding buildings. As currently contemplated, the architectural design calls for projecting horizontal shading devices on the east side of the tower that would create shadow patterns across this facade, constantly changing the tower's perceived scale and appearance. The western facade would include a vertical composition of fritted and/or textured glass, again to visually reduce the scale of the building. Despite design measures currently contemplated, the new mid-block tower would significantly increase density in the midblock, adversely affecting this component of urban design. However, the reduction in the height of the proposed research building from 440 feet to 420 feet, reflected in the revision to the ULURP application after the issuance of the DEIS, would partially mitigate the impact.

Full campus development assumed by 2011 would not alter the street pattern or any natural features or block shapes in the study area. The project development would be built to the sidewalk and would maintain a presence at the respective streetwall. The proposed actions would also provide a major new entrance to the campus on a side street where little activity now occurs, and would be expected to enliven nearby streets with greater activity and more pedestrians. The building on the main campus block would be generally larger in scale than what currently exists, with lower floors built to the street and a set-back "tower," similar to some of the institutional and residential buildings in the area. As discussed above, the larger mid-block buildings in the surrounding area are typically much smaller in height and floorplate size than the proposed buildings. In addition, most have an east-west orientation; while the tower of the building on the main campus block shares this orientation, the research building on the north block does not. The lower portions of the buildings at the streetline, rather than the towers, would be most apparent to pedestrians passing by. The buildings would not obstruct any significant views or vistas, or significantly affect the viewing of visual resources in the area.

Overall, the two towers in the mid-blocks in 2011 and the increased density would cause a significant adverse impact.

Neighborhood Character: In both 2007 and 2011, the proposed actions would be expected to affect some

but not all of the elements contributing to the neighborhood character of this area of Manhattan's Upper East Side. The proposed actions would allow expansion of a traditional land use in the area—medical facilities—and would support the overall utility of the area.

The proposed research building and the potential development on the remainder of the campus would increase densities on the midblocks, contributing to an on-going trend of increasing density in the area. New development would bring a higher level of activity to the area with increases in the workers, patients, and visitors. This increase would result in additional traffic, transit, and pedestrian trips in the study area. Overall, there would be a significant adverse impact on the general character of the area.

The proposed actions would not significantly impact socioeconomic conditions or noise. With a construction protection plan for St. Catherine's Church, construction-related impacts on historic resources would be mitigated. Although no view corridors or visual resources would be affected, views to the east-facing clerestory windows of St. Catherine's Church would be blocked. The architectural design of the proposed research building has been developed to respect the small-scale St. Catherine's Church immediately to its west with a linear courtyard between the two buildings and a masonry facade to complement the brick facade of the church. In addition, to reduce both the midblock density and the impact of the new building, between the Draft and Final Environmental Impact Statements, the height of the building envelope was reduced from 440 to 420 feet. This would partially mitigate the building's adverse effect on urban design and its corresponding effect on this aspect of neighborhood character.

Overall, a number of factors that create the character of the neighborhood would be supported, while others would not be affected because of mitigation or avoidance measures. The increase in traffic and in urban design density at full build-out would tend to indicate an adverse impact on neighborhood character. However, the impact would be partially mitigated by the reduction in the size of the proposed research building and the elimination of the south block (and resulting development, employees, patients and visitors) from the rezoning area, which also took place after publication of the DEIS. Alternatives that would mitigate or reduce this impact were considered.

Hazardous Materials: There is a potential for adverse impacts during construction activities resulting from the presence of chemical and radioactive products, hazardous waste, petroleum storage tanks, asbestos-containing materials, PCB-containing materials, and lead-based paint. Construction activities could disturb hazardous materials and increase pathways for human exposure.

Traffic and Parking: Based on the standards of the CEQR Technical Manual, the increases in traffic generated by the proposed project would cause significant impacts in both the 2007 and 2011 analysis years. In 2007, there would be impacts at 3 intersections in the AM peak hour and 5 intersections in the PM peak hour. There would not be any impacts in the midday peak hour. Impacts would occur at the following intersections in 2007:

- York Avenue and East 63rd Street (PM peak);
- York Avenue and East 67th Street (PM peak);
- York Avenue and East 69th Street (AM peak);
- York Avenue and East 71st Street (AM peak);
- York Avenue and East 72nd Street (PM peak);
- First Avenue and East 68th Street (PM peak); and
- Second Avenue and East 68th Street (AM and PM peaks).

In 2011, the increases in traffic generated by the proposed project would cause significant impacts at 9 intersections in the AM peak hour, 8 intersections in the midday peak hour, and 11 intersections in the PM peak hour. Impacts would occur at the following intersections in 2011:

York Avenue and East 61st Street (PM peak);
York Avenue and East 62nd Street (AM and PM peaks);
York Avenue and East 63rd Street (midday and PM peaks);
York Avenue and East 66th Street (PM peak);
York Avenue and East 67th Street (AM, midday, and PM peaks);
York Avenue and East 69th Street (AM and PM peaks);
York Avenue and East 71st Street (AM, midday, and PM peaks);
York Avenue and East 72nd Street (AM, midday, and PM peaks);
First Avenue and East 67th Street (AM and midday peaks);
First Avenue and East 68th Street (AM, midday, and PM peaks);
Second Avenue and East 68th Street (AM, midday, and PM peaks); and
Second Avenue and East 69th Street (AM, midday, and PM peaks).

For both analysis years, all of the impacted locations could be fully mitigated through signal retiming or changes to parking regulations.

Transit and Pedestrians: The subway station stairs at the southeast and northeast corners of East 68th Street at Lexington Avenue would be significantly affected during the AM and PM peak periods analyzed. In 2007, there would be a significant impact at the northeast stair, which would operate at LOS F. In 2011, there would be significant impacts at both the southeast and the northeast stairs, which would continue to operate at LOS F.

Noise: To ensure interior noise levels of at most 45 dBA, an (E) designation would be placed on lots subject to the rezoning to ensure that CEPO-CEQR requirements are satisfied. The text of the (E) designation is as follows concerning Block 1463, Lots 5, 11, 21, 31:

In order to ensure an acceptable interior noise environment, at all facades to East 68th and 69th Streets, future uses must provide a closed window condition with a minimum window/wall attenuation of 30 dB(A), in order to maintain an interior noise level of 45 dB(A). In order to maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning or air conditioning sleeves containing air conditioners.

The text of the (E) designation is as follows on Block 1462, Lot 5:

In order to ensure an acceptable interior noise environment, at all facades to roadways, future uses must provide a closed window condition with a minimum window/wall attenuation of 35 dB(A), in order to maintain an interior noise level of 45 dB(A). In order to maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning or air conditioning sleeves containing air conditioners.

The (E) designation would ensure that there would be no significant adverse noise impacts.

Construction Impacts: Proposed and potential development would require the demolition of the existing buildings on the MSKCC campus. Construction of the proposed research building is expected to be completed by 2007, while completion of full development is assumed by 2011. Although some construction impacts would be unavoidable, the duration and severity of these effects would be relatively short-term and would be minimized by implementing measures during scheduling and staging of activities to control intrusive construction-related noise and particulate emissions, as well as minimize disruption to existing traffic and pedestrian circulation.

During periods of intensive excavation activity, such as excavation of bedrock, appropriate measures would be taken to ensure that no structural damage to adjacent structures would occur. The project would implement a program to monitor vibrations to ensure that blasting and excavation activities are done in conformance with applicable building codes. Existing building foundations adjacent to the construction site would be surveyed and structural movement would be monitored to safeguard the integrity of these structures from construction activities.

MSKCC has discussed relocation of Woodward School with the school's leadership and with representatives of New York-Presbyterian Hospital, which owns the school's present location. It is likely that Woodward would be relocated to the ground floor of the present MSKCC library, and have a separate entrance to that space from 1233 York Avenue. A play area would be provided in a terrace adjacent to the medical library. Preliminary designs are now being developed for review by Woodward.

Construction-related impacts to St. Catherine's Church, a potential historic resource, would be mitigated by the measures discussed below in "Mitigation." Similarly, construction-related hazardous materials impacts at the Kettering Laboratory site and the main campus block would be mitigated by the measures discussed in the mitigation section below.

Mitigation Measures

Mitigation measures have been identified for historic resource impacts; hazardous materials impacts; traffic impacts; and transit impacts. Impacts related to open space and recreational facilities, urban design and visual resources, and neighborhood character would be unmitigable.

Historic Resources (Architectural Resources): Construction of the proposed research building could potentially affect the Church of St. Catherine of Siena. To mitigate these potential adverse physical impacts, a construction protection plan would be developed and implemented following the guidelines set forth in "The New York City Landmarks Preservation Commission Guidelines for Construction Adjacent to a Historic Landmark" and "Protection Programs for Landmark Buildings."

Since the proposed project would be built adjacent to the east side of the Church of St. Catherine of Siena, between it and the sun, there would be an increase in shadows on the east facade of the church as a result of the proposed project. To mitigate this potential impact, the applicant has included in the project's design exterior illumination for the stained glass windows at this location. This illumination would supplement the natural light on the windows that would be diminished by the proposed project. The illumination would allow the stained glass windows to be seen from within the church in a way that would provide clarity to the artwork. The light sources would be located on the exterior of the church and/or the exterior of the research building, and be directed toward each of the stained glass openings.

The selection and direction of the fixtures would be such as to minimize spill onto the adjacent buildings. The exterior light sources would be located after consultation with church officials and be placed in such a manner as to minimize impact on the exterior of the church.

Urban Design: The two towers in the mid-blocks and the increased density could cause a significant adverse impact to urban design. Since publication of the DEIS, the height of the proposed research building has been reduced from 440 to 420 feet (to the top of the mechanical stacks) to partially mitigate this impact. Alternatives that would reduce or mitigate this impact were considered.

Hazardous Materials: NYCDEP has requested that prior to excavation, a Phase II subsurface investigation would be conducted to fully characterize the potential contamination at the Kettering Laboratory site and portions of the main campus block that would be affected by new construction. An investigative work plan including a testing protocol and Health and Safety Plan would be submitted to NYCDEP for review and approval before testing is undertaken. The results of the testing program and the remediation plan, if required, would be submitted to NYCDEP for review and approval. Since the existing Kettering Laboratory must continue to function until the building is demolished, it is impractical to complete a testing program until that time. Therefore, MSKCC has entered into a restrictive declaration that would ensure that the appropriate characterization and remediation take place before any soil disturbance or construction begins. With this restrictive declaration, the potential for an adverse impact would be avoided.

Traffic: Mitigation would be required for several intersections. Measures which would mitigate impacts to No Action service conditions or better have been identified, and are listed below. NYCDOT has reviewed the mitigation measures and has agreed to evaluate operating conditions prior to completion of Phase 1 and Phase 2. At that time, appropriate mitigation measures will be implemented.

For the 2007 analysis year impacts, modification of the signal timing plan is proposed for the following intersections: York Avenue and East 63rd, East 69th, East 71st, and East 72nd Streets; First Avenue and East 68th Street; and Second Avenue and East 68th Street. The impact at York Avenue and East 67th Street could be mitigated by prohibiting parking (daylighting) along one of the approaches, and creating a lagging northbound phase.

York Avenue and East 63rd Street

The impact at the southbound left-turn movement at this intersection during the PM peak period could be mitigated by subtracting 1 second of green time from the westbound phase and adding to the southbound lagging phase. With this retiming, delays at the southbound left-turn movement would improve to 63.0 spv (LOS F) with a v/c ratio of 1.056 from a delay of 86.2 spv (LOS F) with a v/c ratio of 1.109 in 2007 with the proposed actions. This measure would mitigate the impact to No Action conditions or better.

York Avenue and East 67th Street

The impact at the northbound approach at this intersection during the PM peak period could be mitigated by prohibiting parking (daylighting) for approximately 150 feet from the intersection (approximately 6 spaces) on the northbound approach and developing an 8-second lagging phase for the northbound through and left-turn. Parking regulations at the northbound approach would

be “No Standing from Here to Corner 4 PM to 7 PM.” With these measures, delays at the northbound approach would improve to 5.9 spv (LOS B) with a v/c ratio of 0.630 from a delay of 39.6 spv (LOS D) with a v/c of 0.790 at the defacto northbound left-turn movement and 57.3 (LOS E) with a v/c ratio of 1.082 at the northbound left-through movement in 2007 with the proposed actions. This measure would mitigate the impact to No Action conditions or better.

York Avenue and East 69th Street

The impact at the northbound left-through movement at this intersection during the AM peak period could be mitigated by subtracting 1 second of green time from the eastbound/westbound pedestrian phase and adding it to the northbound/southbound phase. With this retiming, delays at the northbound left-through movement would improve to 30.6 spv (LOS D) with a v/c ratio of 1.013 from a delay of 35.0 spv (LOS D) with a v/c ratio of 1.027 in 2007 with the proposed actions. This measure would mitigate the impact back to 32.5 spv or better.

Based on an approximately 60-foot roadbed width on York Avenue, an average pedestrian walking speed of 3 feet per second, and a start-up time of 3 seconds, the minimum time needed for pedestrians crossing York Avenue is 23 seconds. With the proposed retiming, there would be 36 seconds available for pedestrians crossing York Avenue. If this retiming is not implemented, and there is no alternative mitigation measure, there would be a significant impact at this intersection.

York Avenue and East 71st Street

The impact at the northbound approach at this intersection during the AM peak period could be mitigated by subtracting 1 second of green time from the westbound phase and adding it to the northbound/southbound phase. With this retiming, delays at the northbound approach would improve to 75.0 spv (LOS F) with a v/c ratio of 1.113 from a delay of 86.2 spv (LOS F) with a v/c ratio of 1.134 in 2007 with the proposed actions. This measure would mitigate the impact back to No Action conditions or better.

York Avenue and East 72nd Street

The impact at the westbound approach at this during the PM peak period could be mitigated by subtracting 1 second of green time from the northbound/southbound phase and adding it to the eastbound/westbound phase. With this retiming, delays at the westbound approach would improve to 99.5 spv (LOS F) with a v/c ratio of 1.081 from a delay of 123.6 spv (LOS F) with a v/c ratio of 1.130 in 2007 with the proposed actions. This measure would mitigate the impact back to No Action conditions or better.

First Avenue and East 68th Street

The impact at the eastbound approach at this intersection during the PM peak period could be mitigated by subtracting 1 second of green time from the northbound phase and adding it to the eastbound phase. With this retiming, delays at the eastbound approach would improve to 73.1 spv (LOS F) with a v/c ratio of 1.069 from a delay of 87.4 (LOS F) with a v/c ratio of 1.102 in 2007 with the proposed actions. This measure would mitigate the impact back to No Action

conditions or better.

Second Avenue and East 68th Street

The impact at the eastbound approach at this intersection during the AM peak period could be mitigated by subtracting 2 seconds of green time from the southbound phase and adding it to the eastbound phase. With this retiming, delays at the eastbound approach would improve to 62.3 spv (LOS F) with a v/c ratio of 1.017 from a delay of 84.4 spv (LOS F) with a v/c ratio of 1.075 in 2007 with the proposed actions. This measure would mitigate the impact back to No Action conditions or better.

During the PM peak hour, the impact could be mitigated by subtracting 1 second of green time from the southbound phase and adding it to the eastbound phase. With this retiming, delays at the eastbound approach would improve to 69.7 spv (LOS F) with a v/c ratio of 1.060 from a delay of 82.5 spv (LOS F) with a v/c ratio of 1.091 in 2007 with the proposed actions. This measure would mitigate the impact back to No Action conditions or better.

For the 2011 analysis year, modification of the signal timing plan is proposed for the following intersections: York Avenue and East 61st, East 62nd, East 63rd, East 66th, East 67th, and East 69th Streets; First Avenue and East 67th and East 68th Streets; Second Avenue and East 68th and East 69th Streets. The impacts at York Avenue and East 67th, East 71st, and East 72nd Streets could be mitigated by modifying the signal timing plan and prohibiting parking (daylighting) along one of the approaches.

York Avenue and East 61st Street

The impact at the northbound defacto left-turn movement at this intersection during the PM peak period could be mitigated by subtracting 1 second of green time from the westbound phase and adding it to the northbound/southbound phase. With this retiming, delays at the northbound defacto left-turn movement would improve to 122.0 spv (LOS F) with a v/c ratio of 1.037 from a delay of 137.4 spv (LOS F) with a v/c ratio of 1.067 in 2011 with the proposed actions. This measure would mitigate the impact back to No Action conditions or better.

York Avenue and East 62nd Street

The impacts at the northbound approach at this intersection during both the AM and midday peak periods could be mitigated by subtracting 1 second of green time from the southbound lagging phase and adding it to the northbound/southbound phase. With this retiming, delays would improve to 32.1 spv (LOS D) with a v/c ratio of 0.955 from 35.8 spv (LOS E) with a v/c ratio of 0.957 in 2011 with the proposed actions during the AM peak period.

The impact at the southbound approach at this intersection during the PM peak period could be mitigated by subtracting 1 second of green time from the pedestrian phase and adding it to the southbound lagging phase. With this retiming, delays would improve to 57.5 spv (LOS E) with a v/c ratio of 1.198 from 65.3 spv (LOS F) with a v/c ratio of 1.113 in 2011 with the proposed actions.

With these measures in place, impacts would be mitigated back to No Action conditions or

better.

York Avenue and East 63rd Street

The impact at the southbound left-turn movement at this intersection during the midday and PM peak periods could be mitigated by subtracting 1 second of green time from the northbound/southbound phase and adding it to the southbound lagging phase. With these retimings, delays would improve to 71.9 (LOS F) with a v/c ratio of 1.041 from 102.8 spv (LOS F) with a v/c ratio of 1.110 during the PM peak period in 2011 with the proposed actions during the midday peak period, and to 79.1 spv (LOS F) with a v/c ratio of 1.096 from 107.2 spv (LOS F) with a v/c ratio of 1.150 in 2011 with the proposed actions.

With these measures in place, impacts would be mitigated back to No Action conditions or better.

York Avenue and 66th Street

The impact at the northbound defacto left-turn movement at this intersection during the PM peak period could be mitigated by subtracting 5 seconds of green time from the westbound phase and adding it to the northbound/southbound phase. With this retiming, delays would improve to 37.9 spv (LOS D) with a v/c ratio of 0.809 from a delay of 76.7 (LOS F) with a v/c ratio of 0.944 in 2011 with the proposed actions. With this measure in place, impacts would be mitigated back to No Action conditions or better.

York Avenue and East 67th Street

The impact at the northbound left-turn and through movements at this intersection during the AM, midday, and PM peak periods could be mitigated by creating a leading northbound phase with 8 seconds of green time (and 3 seconds of yellow plus all red time). In addition, during the midday and PM peak periods, parking at the southbound approach would be prohibited (daylighting) for approximately 150 feet from the intersection (approximately 6 spaces). Parking regulations would be "No Standing from Here to Corner Noon to 2 PM and 4 PM to 7 PM." With these measures, delays would improve to 4.8 spv (LOS A) with a v/c of 0.479 from delays of 81.7 spv (LOS F) with a v/c ratio of 0.965 at the northbound defacto left-turn movement and 5.0 spv (LOS A) with a v/c ratio of 0.512 at the through movement in 2011 with the proposed actions during the AM peak period, to 10.2 spv (LOS B) with a v/c ratio of 0.870 from a delay of 166.0 spv (LOS F) with a v/c ratio of 1.188 at the defacto left-turn movement and 95.6 (LOS F) with a v/c ratio of 1.163 at the through movement in 2011 with the proposed actions during the midday peak period, and to 7.4 (LOS B) with a v/c ratio of 0.740 from 68.7 spv (LOS F) with a v/c of 0.917 at the defacto left-turn movement and 69.6 spv (LOS F) with a v/c ratio of 1.110 at the through movement in 2011 with the proposed actions during the PM peak period. With these measures in place, impacts would be mitigated back to No Action conditions or better.

York Avenue and East 69th Street

The impact at the northbound approach at this intersection during the AM and PM peak periods could be mitigated by creating a leading northbound phase with 8 seconds of green time (and 3

seconds of yellow plus all red time). With this retiming, delays at the northbound approach would improve to 6.8 spv (LOS B) with a v/c ratio of 0.709 from 57.0 spv (LOS F) with a v/c ratio of 1.088 in 2011 with the proposed actions during the AM peak, and to 8.1 spv (LOS B) with a v/c ratio of 0.774 from delays of 49.8 spv (LOS E) with a v/c ratio of 1.068 in 2011 with the proposed actions during the PM peak.

With these proposed measures in place, impacts would be mitigated back to No Action conditions or better.

York Avenue and East 71st Street

The impact at the northbound approach at this intersection during the AM peak period could be mitigated by prohibiting parking for approximately 150 feet from the intersection (approximately 6 spaces) at the northbound approach. Parking regulations would be “No Standing From Here to Corner 7AM to 10AM.” With this measure, delays at the northbound approach would improve to 57.8 spv (LOS F) with a v/c ratio of 1.074 from a delay of 120.2 (LOS F) with a v/c ratio of 1.193 in 2011 with the proposed actions.

During both the midday and PM peak periods, the impacts could be mitigated by subtracting 1 second of green time from the westbound phase and adding it to the northbound/southbound phases. With this retiming, delays at the northbound approach would improve to 78.5 spv (LOS F) with a v/c ratio of 1.129 from a delay of 94.4 (LOS F) with a v/c ratio of 1.157 in 2011 with the proposed actions during the midday peak period, and to 75.2 (LOS F) with a v/c ratio of 1.114 from a delay of 85.9 spv (LOS F) with a v/c of 1.134 in 2011 with the proposed actions during the PM peak period.

With these proposed measures in place, impacts would be mitigated back to No Action conditions or better.

York Avenue and East 72nd Street

The impacts at the eastbound and westbound approaches during the AM peak period could be mitigated by subtracting 1 second of green time from the northbound and southbound phase and adding it to the eastbound/westbound phase. With this retiming, delays at the eastbound approach would improve to 86.6 spv (LOS F) with a v/c ratio of 1.088 from 103.0 (LOS F) with a v/c ratio of 1.122 in 2011 with the proposed actions. At the westbound approach, delays would improve to 101.3 spv (LOS F) with a v/c ratio of 1.068 from 125.0 (LOS F) with a v/c ratio of 1.118 in 2011 with the proposed actions.

During the midday peak period, the impact at the northbound approach could be mitigated by subtracting 1 second of green time from the eastbound/westbound pedestrian phase and adding it to the northbound/southbound phase. With this retiming, delays at the northbound approach would improve to 89.3 spv (LOS F) with a v/c ratio of 1.147 from a delay of 106.7 (LOS F) with a v/c ratio of 1.176 in 2011 with the proposed actions.

During the PM peak period, the impact at the westbound approach could be mitigated by prohibiting parking (daylighting) for approximately 150 feet from the intersection

(approximately 6 spaces) on westbound approach. Parking regulations would be “No Standing From Here to Corner 4PM to 7PM.” Parking demand is discussed below. With this measure, delays at the westbound approach would improve to 89.1 (LOS F) with a v/c ratio of 1.059 from a delay of 261.5 spv (LOS F) with a v/c ratio of 1.324 in 2011 with the proposed actions.

With these proposed measures in place, impacts would be mitigated back to No Action conditions or better.

First Avenue at East 67th Street

The impact at the westbound approach at this intersection during the AM and midday peak periods could be mitigated by subtracting 2 seconds of green time from the northbound phase and adding it to the westbound phase. With this retiming, delays at the westbound approach would improve to 53.2 spv (LOS E) with a v/c ratio of 0.976 from a delay of 72.0 spv (LOS F) with a v/c ratio of 1.036 in 2011 with the proposed actions during the AM peak period, and to 75.2 spv (LOS F) with a v/c ratio of 1.051 from a delay of 103.8 spv (LOS F) with a v/c ratio of 1.115 in 2011 with the proposed actions during the midday peak period.

With these proposed measures in place, impacts would be mitigated back to No Action conditions or better.

First Avenue and 68th Street

The impact at the eastbound approach during the AM peak period could be mitigated by subtracting 3 seconds of green time from the northbound phase and adding it to the eastbound phase. With this retiming, delays at the eastbound approach would improve to 55.2 spv (LOS E) with a v/c ratio of 0.997 from a delay of 88.7 spv (LOS F) with a v/c ratio of 1.087 in 2011 with the proposed actions.

The impact at the eastbound approach at this intersection during the midday and PM peak periods could be mitigated by subtracting 1 and 2 seconds of green time, respectively, from the northbound phase and adding it to the eastbound phase. With this retiming, delays at the eastbound approach would improve to 82.3 spv (LOS F) with a v/c ratio of 1.086 from a delay of 98.1 spv (LOS F) with a v/c ratio of 1.119 in 2011 with the proposed actions during the midday peak period, and to 78.8 spv (LOS F) with a v/c ratio of 1.086 from a delay of 112.1 spv (LOS F) with a v/c ratio of 1.152 in 2011 with the proposed actions during the PM peak period.

With these proposed measures in place, impacts would be mitigated back to No Action conditions or better.

Second Avenue and 68th Street

The impact at the eastbound approach at this intersection during the AM peak period could be mitigated by subtracting 4 seconds of green time from the southbound phase and adding it to the eastbound phase. With this retiming, delays at the eastbound approach would improve to 66.0 spv (LOS F) with a v/c ratio of 1.035 from a delay of 121.2 spv (LOS F) with a v/c ratio of 1.153 in 2011 with the proposed actions.

During the midday and PM peak periods the impacts at the eastbound approach could be mitigated by subtracting 1 and 2 seconds of green time, respectively, from the southbound phase and adding it to the eastbound phase. With this retiming, delays at the eastbound approach would improve to 82.5 spv (LOS F) with a v/c ratio of 1.088 from a delay of 97.4 spv (LOS F) with a v/c ratio of 1.119 in 2011 with the proposed actions during the midday peak, and to 74.9 spv (LOS F) with a v/c ratio of 1.076 from a delay of 104.6 spv (LOS F) with a v/c ratio of 1.138 in 2011 with the proposed actions during the PM peak.

With these proposed measures in place, impacts would be mitigated back to No Action conditions or better.

Second Avenue and East 69th Street

The impact at the westbound approach at this intersection during the AM peak period could be mitigated by subtracting 2 seconds of green time from the southbound phase and adding it to the westbound phase. With this retiming, delays at the westbound approach would improve to 37.2 spv (LOS D) with a v/c ratio of 0.904 from a delay of 48.4 spv (LOS E) with a v/c ratio of 0.957 in 2011 with the proposed actions.

During the midday peak period, the impact could be mitigated by subtracting 1 and 2 second of green time from the southbound phase and adding it to the westbound phase. With this retiming, delays at the westbound approach would improve to 79.8 spv (LOS F) with a v/c ratio of 1.081 from a delay of 94.6 spv (LOS F) with a v/c ratio of 1.112 in 2011 with the proposed actions.

During the PM peak period the impact could be mitigated by subtracting 1 second of green time from the southbound phase and adding it to the westbound phase. With this retiming, delays at the westbound approach would improve to 43.5 spv (LOS D) with a v/c ratio of 0.937 from a delay of 50.0 spv (LOS E) with a v/c ratio of 0.965 in 2011 with the proposed actions.

With these proposed measures in place, impacts would be mitigated back to No Action conditions or better.

Transit: In 2007, a one inch widening would be required to mitigate the significant impact to the subway station stairs at the northeast corner of East 68th Street at Lexington Avenue. In 2011, a widening of two inches at the southeast stair would be required to alleviate crowded stair conditions, and at the northeast stairs a widening of three inches would be necessary.

The Metropolitan Transit Authority (MTA) generally does not disrupt service on a stairway to complete a widening of two inches, but could instead choose to widen the stair by at least six inches to one foot. Therefore, no subway stair mitigation would be undertaken for 2007. Instead, discussions with the MTA have focused on widening the northeast and southeast stairs as part of the Phase 2 development. The MTA has reviewed and approved conceptual improvement plans. According to the CEQR Technical Manual “the applicant generally identifies the cost associated with the percent of construction required to mitigate the action’s significant adverse impacts.” The applicant would be responsible for this portion of the improvement. There is no commitment by the MTA regarding funding this mitigation at this time. If mitigation is not implemented, a significant adverse impact would occur.

Unavoidable Adverse Impacts

As described above, there would be an adverse impact on open space in 2011 due to the increase in open space users and the increase in shadows on St. Catherine's Park from the proposed research building and potential development on the main campus block. Potential improvements are limited, as St. Catherine's Park (the only public space in the immediate area) has been extensively renovated in the past few years and there are no capital improvements that it needs relative to passive open space. There are no potential sites for additional open space in the control of the New York City Department of Parks and Recreation or MSKCC. Therefore, the proposed actions would result in an unmitigated significant adverse impact to open space in 2011.

The proposed actions would also result in a significant adverse impact to urban design in 2007 and 2011, due to increased density in the midblocks. This significant adverse impact on urban design would be partially mitigated by reduction in height of the proposed research building envelope from 440 to 420 feet. At full build out the two buildings would have a significant adverse impact on urban design due to increased density.

This impact on urban design would also result in a significant adverse impact to neighborhood character. However, the reduction in the height of the research building's envelope would partially mitigate the building's adverse effect on urban design and its corresponding effect on this aspect of neighborhood character. At full build out in 2011, increases in traffic and in urban design density would cause a significant adverse impact on neighborhood character. This impact was reduced and partially mitigated between DEIS and FEIS by the reduction in the size of the research building and the elimination of the south block (and resulting development, employees, patients and visitors) from the rezoning area. Nonetheless, this impact to neighborhood character would not be fully mitigated.

Alternatives

The FEIS considered a No Action Alternative; an R8 Research Building Alternative, with height and setback waivers; an R8 As-of-Right Research Building Alternative; an R8 As-of-Right Mixed-Use Alternative with development on the north block; an R9 As-of-Right Research Building Alternative; an R9 As-of-Right Mixed-Use Alternative; the Manhattan Borough President's Alternative; the CIVITAS Alternative; Alternative Sites; and a Reduced Main Campus Block Development Alternative.

The following is a description of the impacts and mitigation measures for the Reduced Main Campus Block Development Alternative.

This alternative is the same as the proposed actions except for the amount of new floor area assumed on the main campus block. While the main campus block would be rezoned to R9, this alternative assumes that only 125,000 square feet of additional floor area is developed without additional review and approval by CPC. This area could be used by MSKCC for one or more small projects similar to the infill/infrastructure project currently under construction on the main campus. However, it would not be sufficient for construction of a new inpatient hospital. It is assumed that this area would be used as diagnostic and treatment space. Based on a population estimate of 388 staff, 530 patients and 1,400 visitors for 161,600 square feet of diagnostic and treatment space with the proposed actions, the potential population of this 125,000 square feet would be 302 staff, 413 patients and 1,092 visitors. (This is a total

of 466 fewer staff, 130 fewer inpatients, 117 fewer diagnostic and treatment patients, and 698 fewer visitors than the proposed actions would bring to this block.)

The physical form of this 125,000 square feet is not defined, but it is expected that it could be developed in a form similar to the infill/infrastructure project which is essentially filling voids in the midblock of the main campus block.

This alternative would require all the same actions and approvals as the proposed project as well as some form of limitation on development in the main block. Use of the additional floor area generated by the rezoning and the transfer of floor area from the north block would require additional review and approval by CPC.

In 2007 this alternative would be similar to the proposed research building. At full build-out, this alternative would reduce the impacts associated with population. Since it would not create a major new structure, the urban design and shadow effects would be reduced as would the economic benefits.

Impacts under this alternative would be same or less as the proposed action because this would result in a smaller project than the proposed action. This alternative would not result in any new or greater impacts.

Open Space and Recreational Facilities: The population associated with this alternative would be the same as with the proposed actions in 2007. This alternative would have the same shadows on St. Catherine's Park as compared to the proposed project. Similar to the proposed actions, this alternative would not have an open space impact in 2007.

In 2011 open space user population on the main campus block would be greatly reduced. There would be no additional new shadow on St. Catherine's Park from the relatively low structure in the midblock. With this alternative, there would be approximately 466 fewer workers in the study area in 2011. There would be a 2.6 percent decrease in the open space ratio, compared to a 3.5 percent decrease with the proposed actions. The percent decrease in the overall passive open space ratio would be 1.3 percent as compared to 2.7 percent with the proposed actions. The potential impact on open space would be less under this alternative compared to the proposed actions, but would still constitute a significant adverse impact. As with the proposed actions, this impact would be unmitigable.

Shadows: In 2007 the shadows effects of this alternative would be the same as under the proposed actions. In 2011 this alternative would result in no additional shadows on the park, and thus have less of an effect than the proposed actions.

Historic Resources: This alternative would have the same historic resource impacts and require the same mitigation measures for those impacts as the proposed actions. Similar to conditions with the proposed actions, the research building could have an adverse impact on St. Catherine's Church during construction. As with the proposed actions, mitigation to avoid this impact would be a construction protection plan. New shadows on the church's east-facing, stained-glass windows during the morning would cover most if not all the windows that are not currently in shadow. To mitigate this impact, lighting could be provided to the east-facing windows to replace the sunlight lost in the morning. Similar to the proposed actions, no other historic resources would be affected by MSKCC's actions with this alternative or the proposed actions.

Urban Design and Visual Resources: Since the research building in the Reduced Main Campus Block Development Alternative would be the same as the proposed project, it would have the same adverse impacts on urban design in 2007. As with the proposed actions, this impact would be unmitigable.

In 2011, development on the main campus block would be far less than with the proposed actions. There would be no major new structure of 390,000 square feet, but rather portions of the midblock would be infilled with up to 125,000 square feet, which would be the equivalent of adding less than two floors across the midblock. As compared to the proposed actions, this would not significantly increase the midblock density in this block. Overall this alternative would have less impact on urban design than with the proposed actions. The impact, combined with the impact of the proposed research facility, would constitute a significant adverse impact. As with the proposed actions, the impact would be unmitigable. As with the proposed actions, this alternative would have no impact on visual resources or view corridors.

Neighborhood Character: With this alternative, the development site in the north block would be redeveloped to expand and improve an existing land use in the area, medical facilities. As with the proposed actions, a construction protection plan would be needed to mitigate construction-related impacts to St. Catherine's Church. Morning sunlight to the east-facing stained-glass windows of St. Catherine's Church would be largely lost. Compared to the proposed actions, there would be a new and taller tower adjacent to the small-scale St. Catherine's Church. There would more new activity in the area in 2007, but much less in 2011. The increase in traffic from the research building would be the same as with the proposed project but less at full buildout. Similar to conditions with the proposed actions, with an (E) designation there would be no noise impacts on interiors of new construction in the rezoning area.

Overall, as compared to conditions with the proposed actions, this alternative would have a lesser impact on elements of neighborhood character in the 2011 analysis year. As with the proposed actions, the impacts could be considered significant and adverse and would be unmitigable.

Hazardous Materials: This alternative would result in the same impacts as the proposed action and require the same mitigation measures.

Traffic and Parking: The Reduced Main Campus Block Development Alternative would result in the same floor area and the same number of vehicle trips as the proposed actions in 2007. Similar to conditions with the proposed actions, there would be the same impacts and a need for traffic mitigation associated with MSKCC operations. There would also be an increase in demand for parking, but like the proposed actions, there would be no significant adverse impact to parking.

In 2011, trips to the main campus block would be fewer than with the proposed project. Assuming there are more trips to the north block, this alternative would result in 60, 30, and 70 fewer vehicle trips during the AM, midday, and PM peak hours, respectively, than the proposed project in 2011. In 2011, there would be impacts at 7, 7, and 9 intersections with this alternative, as compared to 9, 8, and 11 intersections with the proposed actions during the AM, midday, and PM peaks. Based on standards set forth in the CEQR Technical Manual, the increases in traffic generated by this alternative would cause significant impacts in 2011 at the locations listed below:

York Avenue and East 61st Street (PM peak);
York Avenue and East 63rd Street (PM peak);

York Avenue and East 66th Street (PM peak);
York Avenue and East 67th Street (AM, midday, and PM peaks);
York Avenue and East 69th Street (AM and PM peaks);
York Avenue and East 71st Street (AM, midday, and PM peaks);
York Avenue and East 72nd Street (midday and PM peaks);
First Avenue and East 67th Street (AM and midday peaks);
First Avenue and East 68th Street (AM, midday, and PM peaks);
Second Avenue and East 68th Street (AM, midday, and PM peaks); and
Second Avenue and East 69th Street (AM and midday peaks).

With this alternative, there would not be impacts at the following locations, as there would be with the proposed actions:

York Avenue and East 62nd Street (AM and PM peaks);
York Avenue and East 63rd Street (midday peak);
York Avenue and East 72nd Street (AM peak); and
Second Avenue and East 69th Street (PM peak).

Traffic mitigation would be similar to the proposed actions. All of the impacted locations could be fully mitigated through signal retiming or changes to parking regulations. These mitigation measures are described below. The increase in demand for parking would also be less than with the proposed conditions, and like the proposed actions, there would be no significant adverse impact to parking.

Proposed signal retimings that would mitigate impacts would result in all of the affected intersections being brought back to the same service conditions, or better, than those under No Action conditions. This alternative would result in the need for mitigation measures similar to or lesser than the proposed actions. NYCDOT has reviewed the mitigation measures for the proposed actions, and has agreed to evaluate operating conditions upon to completion of Phase 2. At that time, appropriate mitigation measures would be implemented.

York Avenue and East 61st Street

The impact at the northbound defacto left-turn movement at this intersection during the PM peak period could be mitigated by subtracting 1 second of green time from the westbound phase and adding it to the northbound/southbound phase, as with the proposed actions. With this retiming, delays at the northbound defacto left-turn movement would improve to 120.8 spv (LOS F) with a v/c ratio of 1.035 from a delay of 136.0 spv (LOS F) with a v/c ratio of 1.064 in 2011 with this alternative. This measure would mitigate the impact back to No Action conditions or better.

York Avenue and East 63rd Street

The impact at the southbound left-turn movement at this intersection during the PM peak periods could be mitigated by subtracting 1 second of green time from the northbound/southbound phase and adding it to the southbound lagging phase, as with the proposed actions. With this retiming, delays would improve to 73.5 (LOS F) with a v/c ratio of 1.083 from 100.2 spv (LOS F) with a v/c ratio of 1.137 in 2011 with this alternative during the PM peak period.

With this measure in place, impacts would be mitigated back to No Action conditions or better.

York Avenue and 66th Street

The impact at the northbound defacto left-turn movement at this intersection during the PM peak period could be mitigated by subtracting 3 seconds of green time (as compared to 5 seconds with the proposed actions) from the westbound phase and adding it to the northbound/southbound phase. With this retiming, delays would improve to 39.2 spv (LOS D) with a v/c ratio of 0.806 from a delay of 59.4 spv (LOS E) with a v/c ratio of 0.885 in 2011 with this alternative. With this measure in place, impacts would be mitigated back to No Action conditions or better.

York Avenue and East 67th Street

The impact at the northbound left-turn and through movements at this intersection during the AM, midday, and PM peak periods could be mitigated by creating a leading northbound phase with 8 seconds of green time (and 3 seconds of yellow plus all red time). In addition, during the midday and PM peak periods, parking at the southbound approach would be prohibited (daylighting) for approximately 150 feet from the intersection (approximately 6 spaces). Parking regulations would be "No Standing from Here to Corner Noon to 2 PM and 4 PM to 7 PM." These measures would be the same as with the proposed actions. With these measures, delays would improve to 4.7 spv (LOS A) with a v/c of 0.464 from delays of 68.8 spv (LOS F) with a v/c ratio of 0.925 at the northbound defacto left-turn movement and 4.9 spv (LOS A) with a v/c ratio of 0.504 at the through movement in 2011 with this alternative during the AM peak period, to 9.8 spv (LOS B) with a v/c ratio of 0.862 from a delay of 157.1 spv (LOS F) with a v/c ratio of 1.175 at the defacto left-turn movement and 91.6 (LOS F) with a v/c ratio of 1.156 at the through movement in 2011 with this alternative during the midday peak period, and to 7.2 (LOS B) with a v/c ratio of 0.731 from 59.2 spv (LOS F) with a v/c of 0.883 at the defacto left-turn movement and 67.6 spv (LOS F) with a v/c ratio of 1.106 at the through movement in 2011 with this alternative during the PM peak period. With these measures in place, impacts would be mitigated back to No Action conditions or better.

York Avenue and East 69th Street

As with the proposed actions, the impact at the northbound approach at this intersection during the AM and PM peak periods could be mitigated by creating a leading northbound phase with 8 seconds of green time (and 3 seconds of yellow plus all red time). With this retiming, delays at the northbound approach would improve to 6.6 spv (LOS B) with a v/c ratio of 0.697 from 48.9 spv (LOS E) with a v/c ratio of 1.068 in 2011 with this alternative during the AM peak, and to 7.5 spv (LOS B) with a v/c ratio of 0.747 from delays of 43.7 spv (LOS E) with a v/c ratio of 1.051 in 2011 with this alternative during the PM peak.

With these proposed measures in place, impacts would be mitigated back to No Action conditions or better.

York Avenue and East 71st Street

With the proposed actions, the impact at the northbound approach at this intersection during the

AM peak period could be mitigated by prohibiting parking (daylighting) for approximately 150 feet from the intersection (approximately 6 spaces) at the northbound approach. Parking regulations would be “No Standing From Here to Corner 7AM to 10AM.” With this alternative, the impact at the northbound approach could be mitigated by subtracting 2 seconds of green time from the westbound phase and adding it to the northbound/southbound phase. With this measure, delays at the northbound approach would improve to 84.7 spv (LOS F) with a v/c ratio of 1.134 from a delay of 110.3 (LOS F) with a v/c ratio of 1.177 in 2011 with this alternative.

During both the midday and PM peak periods, the impacts could be mitigated by subtracting 1 second of green time from the westbound phase and adding it to the northbound/southbound phase, as with the proposed actions. With this retiming, delays at the northbound approach would improve to 75.5 spv (LOS F) with a v/c ratio of 1.123 from a delay of 91.0 (LOS F) with a v/c ratio of 1.151 in 2011 with this alternative during the midday peak period, and to 72.3 (LOS F) with a v/c ratio of 1.108 from a delay of 82.8 spv (LOS F) with a v/c of 1.128 in 2011 with this alternative during the PM peak period.

With these proposed measures in place, impacts would be mitigated back to No Action conditions or better.

York Avenue and East 72nd Street

During the midday peak period, the impact at the northbound approach could be mitigated by subtracting 1 second of green time from the eastbound/westbound pedestrian phase and adding it to the northbound/southbound phase, as with the proposed actions. With this retiming, delays at the northbound approach would improve to 84.5 spv (LOS F) with a v/c ratio of 1.138 from a delay of 101.3 (LOS F) with a v/c ratio of 1.167 in 2011 with this alternative.

With the proposed actions, during the PM peak period, the impact at the westbound approach could be mitigated by prohibiting parking (daylighting) for approximately 150 feet from the intersection (approximately 6 spaces) on westbound approach. Parking regulations would be “No Standing From Here to Corner 4PM to 7PM.” With this alternative, the impact at the westbound approach could be mitigated by subtracting 2 seconds of green time from the northbound/southbound phase and adding it to the eastbound/westbound phase. With this measure, delays at the westbound approach would improve to 126.2 (LOS F) with a v/c ratio of 1.139 from a delay of 193.7 spv (LOS F) with a v/c ratio of 1.242 in 2011 with this alternative.

With these proposed measures in place, impacts would be mitigated back to No Action conditions or better.

First Avenue at East 67th Street

The impact at the westbound approach at this intersection during the AM and midday peak periods could be mitigated by subtracting 1 second of green time (as compared to 2 seconds with the proposed actions) from the northbound phase and adding it to the westbound phase. With this retiming, delays at the westbound approach would improve to 56.2 spv (LOS E) with a v/c ratio of 0.985 from a delay of 65.4 spv (LOS F) with a v/c ratio of 1.015 in 2011 with this alternative during the AM peak period, and to 83.2 spv (LOS F) with a v/c ratio of 1.070 from a delay of

97.9 spv (LOS F) with a v/c ratio of 1.102 in 2011 with this alternative during the midday peak period.

With these proposed measures in place, impacts would be mitigated back to No Action conditions or better.

First Avenue and 68th Street

The impact at the eastbound approach during the AM peak period could be mitigated by subtracting 2 seconds of green time (as compared to 3 seconds with the proposed actions) from the northbound phase and adding it to the eastbound phase. With this retiming, delays at the eastbound approach would improve to 50.8 spv (LOS E) with a v/c ratio of 0.976 from a delay of 69.2 spv (LOS F) with a v/c ratio of 1.035 in 2011 with this alternative.

The impact at the eastbound approach at this intersection during the midday and PM peak periods could be mitigated by subtracting 1 second of green time (as compared to 1 second in the midday and 2 seconds in the PM, respectively with the proposed actions), from the northbound phase and adding it to the eastbound phase. With this retiming, delays at the eastbound approach would improve to 80.7 spv (LOS F) with a v/c ratio of 1.082 from a delay of 96.2 spv (LOS F) with a v/c ratio of 1.115 in 2011 with this alternative during the midday peak period, and to 87.6 spv (LOS F) with a v/c ratio of 1.104 from a delay of 104.7 spv (LOS F) with a v/c ratio of 1.137 in 2011 with this alternative during the PM peak period.

With these proposed measures in place, impacts would be mitigated back to No Action conditions or better.

Second Avenue and 68th Street

The impact at the eastbound approach at this intersection during the AM peak period could be mitigated by subtracting 3 seconds of green time (as compared to 4 seconds with the proposed actions) from the southbound phase and adding it to the eastbound phase. With this retiming, delays at the eastbound approach would improve to 65.1 spv (LOS F) with a v/c ratio of 1.029 from a delay of 103.0 spv (LOS F) with a v/c ratio of 1.117 in 2011 with this alternative.

During the midday and PM peak periods the impacts at the eastbound approach could be mitigated by subtracting 1 second of green time (as compared to 1 second during the midday and 2 seconds during the PM, respectively with the proposed actions), from the southbound phase and adding it to the eastbound phase. With this retiming, delays at the eastbound approach would improve to 80.5 spv (LOS F) with a v/c ratio of 1.083 from a delay of 95.0 spv (LOS F) with a v/c ratio of 1.114 in 2011 with this alternative during the midday peak, and to 82.4 spv (LOS F) with a v/c ratio of 1.093 from a delay of 97.6 spv (LOS F) with a v/c ratio of 1.124 in 2011 with this alternative during the PM peak.

With these proposed measures in place, impacts would be mitigated back to No Action conditions or better.

Second Avenue and East 69th Street

The impact at the westbound approach at this intersection during the AM peak period could be mitigated by subtracting 2 seconds of green time from the southbound phase and adding it to the westbound phase, as with the proposed actions. With this retiming, delays at the westbound approach would improve to 35.2 spv (LOS D) with a v/c ratio of 0.889 from a delay of 45.2 spv (LOS E) with a v/c ratio of 0.941 in 2011 with this alternative.

During the midday peak period, the impact could be mitigated by subtracting 1 second of green time from the southbound phase and adding it to the westbound phase, as compared with the proposed actions. With this retiming, delays at the westbound approach would improve to 79.0 spv (LOS F) with a v/c ratio of 1.079 from a delay of 93.7 spv (LOS F) with a v/c ratio of 1.110 in 2011 with this alternative.

With these proposed measures in place, impacts would be mitigated back to No Action conditions or better.

Transit: In 2007, there would be the same impact to the northeast subway stair as with the proposed actions, and, as noted above in the discussion of mitigation for the proposed actions, mitigation would not be required. In 2011, there would be 117, 17, and 132 fewer subway trips than the proposed actions, but like the proposed actions, there would be impacts to the northeast and southeast stairs requiring mitigation. A widening of two inches at each of the northeast and southeast stairs would be required, as compared to the proposed actions, which would require a widening of three inches at the northeast stair and two inches at the southeast stair. An engineering feasibility study with conceptual plans has been reviewed and approved by the MTA for the proposed actions; the same improvements would appropriately mitigate this impact. As with the proposed actions, the applicant would be responsible for funding the cost associated with the percent of construction required to mitigate the alternative's impacts. As with the proposed actions, there is no commitment by the MTA regarding funding this mitigation at this time, and if mitigation is not implemented, a significant adverse impact would occur.

Noise: This alternative would require the same (E) designations for noise as the proposed action to avoid significant adverse impacts in the rezoning area.

Construction Impacts: The Reduced Main Campus Block Development Alternative would have temporary construction impacts similar to the proposed actions. The duration and phasing of construction activities would be comparable to that of the proposed actions on the north block. On the main campus block there would be much less construction. Similar to the proposed actions, any construction-related impacts would be relatively short-term and be governed by applicable city, state, and federal regulations regarding construction activity, thereby avoiding significant adverse impacts. Construction impacts related to historic resources and hazardous materials would be the same as the proposed action and require the same mitigation measures.

UNIFORM LAND USE REVIEW

This application (C 0101548 ZSM), in conjunction with the application for related action (C

010547 ZMM) was certified as complete by the Department of City Planning on June 4, 2001, and was duly referred to Community Board 8 and to the Borough President in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules along with the application for the related non-ULURP authorization (N 010549 ZAM) which was referred for information and comment.

On September 21, 2001, the City Council adopted a local law, signed by the Mayor on October 10, 2001 as Local Law No. 58 of 2001, to extend review periods under the Uniform Land Use Review Procedure for applications pending as of September 11, 2001, the date of the World Trade Center tragedy. Under Local Law No. 58, the 60-day period for community board review was extended by 30 days for any application pending at a community board as of September 11, 2001; the 30-day period for borough president and/or borough board review was extended by 30 days for any application pending before the borough president and/or borough board as of September 11, 2001; and the 60-day period for review and action by the City Planning Commission on ULURP applications (NYC Charter §197-c(f)) was extended for forty-five days for applications pending before the Commission as of September 11, 2001. Local Law No. 58 of 2001 also provides that, notwithstanding the provisions of NYC Charter §197-c(j), the failure of the Commission to act on a ULURP application pending as of September 11, 2001 within the sixty day period prescribed by the NYC Charter for Commission review, shall not be deemed to result in disapproval of the application.

Community Board Public Hearing

Community Board 8 held a public hearing on this and the related applications (C 010547 ZMM and N 010549 ZAM) on July 18, 2001, and on that date, by a vote of 22 in favor, 19 opposed, and 2 abstaining, adopted a resolution recommending disapproval of the applications.

Borough President Recommendation

This application (C 010548 ZSM) in conjunction with the related actions (C 010547 ZMM and N 010549 ZAM) was considered by the Borough President, who issued a recommendation on

August 21, 2001, approving the applications with the following conditions:

South Block (Block 1461):

1. The R9 rezoning request for the southern block is denied; and,

Center Block (Block 1462): The R9 rezoning is approved.

2. The applicant has expressed an interest to commit to a maximum height of 175 feet for any future mid block development and 300 feet along the avenues; and,

North Block (Block 1463): The R9 is approved with modification as follows:

3. An east-west line should be drawn across the northern block thereby retaining the current R8 status on the northern half while the southern half is rezoned to R9; and,
4. Any new building on the northern block cannot exceed a maximum height of 360 feet including mechanicals; and,
5. There should be a restrictive declaration required to include an obligation that any future use of the floor area generated by these zoning actions cannot be transferred to the southern block (1461) without being subject to a full land use review; and,
6. As part of the restrictive declaration, MSK agree to not transfer any leftover floor area over from the north building as a result of the FAR increase from 6.5 in R8 to 10 in R9; and,
7. As part of the restrictive declaration, the R9 shall be limited to community facility uses only.

City Planning Commission Public Hearing

On August 22, 2001, (Calendar No. 6), the City Planning Commission scheduled September 12, 2001, for a public hearing on this application (C 010548 ZSM). On September 25, 2001, (Calendar No. 24) the City Planning Commission rescheduled October 10, 2001, for a public hearing on this application following the events of September 11, 2001, and in accordance with the provisions of Local Law No. 58 of 2001. The hearing was duly held on October 10, 2001 (Calendar No.24), in conjunction with the hearings on the related application (C 010547 ZMM). The hearing was continued to October 12, 2001 (Calendar No. 26). There were thirty-four

speakers in favor of the applications and forty-four speakers in opposition. Written testimony was also received both in support and in opposition of the applications.

Those speaking in favor of the applications included representatives of MSKCC, community residents, and staff of MSKCC.

Speakers representing MSKCC included the president of MSKCC, chair of the MSKCC board, project attorney, and architect. The president of MSKCC emphasized the need to carry forward new research activities with the emerging knowledge of human genome. It was also stressed that the proximity of a research facility to the main campus was critical to providing patient care and maintaining academic excellence. The president emphasized that the research activities facilitated by the applications are distinct from commercial bio-tech activities carried out elsewhere. The president further indicated that MSKCC needs flexibility to facilitate future growth and expansion within the campus to provide quality care and research, and attract research funds and talent.

The project attorney outlined the requested zoning actions. The attorney also described the planning rationale and precedents for mapping higher density zoning districts to facilitate large community facility campuses in the city. The architect presented the proposed expansion in more detail, describing MSKCC's programmatic requirements and site plan. The architect further explained that the proposed building height of the new research facility would be compatible to the height achieved with an as-of-right development. The chair of the MSKCC board further emphasized that the mission of the institution is tri-part, and consists of conducting research work, providing medical service and maintaining academic excellence. The speaker highlighted the economic benefit derived by the City from MSKCC, which has an operating budget of over one billion dollars.

Many speakers in favor of the applications, including scientists and physicians affiliated with MSKCC, as well as cancer patients and local residents, emphasized the need for close proximity

of the research facility to the hospital. The scientists and physicians stressed that such proximity would provide bench-to-bed treatment for patients, allow recruitment of the best talents in the field, and facilitate greater interaction among colleagues in a manner which would promote better research. In addition, the proximity of the proposed research facility to New York Presbyterian Hospital (NYPH) and Rockefeller University (RU) would strengthen collaboration among scientists. They stated that in the past, MSKCC had attempted relocating a research facility to Rye, NY, which proved unsuccessful. Patients of MSKCC stated that having the facilities in close proximity is helpful to them. Several speakers stated that the proposed expansion plan would generate more local business and enhance the neighborhood.

Some of the speakers who spoke in favor recognized MSKCC's need for expansion, but suggested modifications to the proposed project including the elimination of south block on the basis that MSKCC had not identified a clear plan.

The Manhattan Borough President recognized the importance of MSKCC and its expansion needs. She stated her support of the zoning proposal, while reiterating her recommended modifications proposed in her report. The recommended modifications include withdrawing the south block from the rezoning action, rezoning the main campus block, partially rezoning the north block along East 68th Street, imposing height limits on the main and north campus blocks, eliminating distribution of floor area from the north campus block, and requiring a restrictive declaration for future use of floor area.

A representative from the Municipal Arts Society (MAS) stated that, in recognition of the programmatic needs of the new research facility, it recommended rezoning only the affected midblock, located between East 68th and East 69th streets, while retaining the existing zoning district on the remaining two midblocks.

Some of the members of Community Board 8 recommended that the Commission consider the resolution adopted by the Community Board's MSKCC sub-committee, which was submitted at

the hearing. The sub-committee's resolution recommended approval of the requested actions with a height limit of 360 feet, including mechanical space, on the north campus block. In addition, the resolution recommended establishment of a maintenance fund for the St. Catherine's Park; addressing the historic resources related to St. Catherine's Church; provision of additional off-street parking; no elimination of on-street parking; identifying alternative mitigation to adjusting traffic signal timing and widening of subway stairs; additional street trees and landscaping; limiting construction to weekdays; and establishment of a community advisory committee.

Those who spoke in opposition were a representative of Community Board 8; civic and community organizations including CIVITAS, 10021 Coalition, Landmark West!, East Side Rezoning Alliance, Friends of the Upper East Side, East 79th Street Neighborhood Association, Historic District Council, Historic Neighborhood Enhancement Alliance, Inc.; elected officials including the State Assemblymember from the 65th District and the Congressman from the 14th District; practicing physicians and scientists; and neighborhood residents. Land use and environmental consultants retained by CIVITAS and 10021 Coalition also testified.

Most of the speakers testifying against the proposal raised issues related to the rezoning of the midblocks, the height of the proposed research building, increased vehicular activity, demand on existing open space, and shadows on St. Catherine's Park, hazardous material generated in the proposed facility, and construction impact. They also questioned MSKCC's programmatic need for a bench-to-bed facility and proximity of the research facility to the campus.

Those in opposition also stated that the proposed R9 district would encourage high density community facility development in the midblocks that would be out of scale with the medium density residential midblocks. They argued that such development would be uncharacteristic of its immediate area and the contextually zoned midblocks of the Upper East Side. Speakers asserted that the 1985 contextual rezoning of the Upper East Side did not rezone the subject midblocks to R8B district specifically in order to allow for future development for MSKCC.

Most of the speakers who testified in opposition stated that rezoning the midblocks to an R9 district would be contrary to past planning efforts of the community and City Planning Commission for the Upper East Side. Some of the speakers expressed concern that the applicant did not provide a comprehensive plan and did not satisfactorily demonstrate the need for additional floor area on the entire campus.

Community Board 8 members, elected officials, civic and preservation groups, and other individuals testified that the R9 rezoning would set a precedent for future midblock rezoning and that it would undermine the zoning policy established in 1985 for the Upper East Side. There was a widespread concern that by approving an R9 district, the Commission would be encouraging other community facilities to request similar rezonings of midblocks. Some of the speakers asserted that an R9 district in the midblock is an anomaly in the Upper East Side and that the subject midblocks should not be compared with that of the campus blocks of NYPH and RU or Mount Sinai Hospital.

Those who spoke in opposition stated that the proposed height of the research facility on the north campus block would not be in context with the surrounding mid-rise developments in the midblocks. Some of the speakers questioned the vertical programming of the facility on the basis that most research facilities are designed horizontally and are low-rise. They also questioned whether the proposed development satisfactorily addressed the findings of special permit and authorization. Several speakers expressed concern that the proposed height would cast more shadow on the St. Catherine's Park. Some suggested that the applicant consider other low-rise alternatives.

The land use consultant retained by CIVITAS suggested an alternative massing for the proposed research facility. The suggested massing would reduce the building height along both East 68th and East 69th streets while accommodating the programmatic floor area. The consultant argued that the alternative massing would successfully redistribute floor area by providing a higher lot coverage. CIVITAS also suggested that the requested actions to facilitate the research facility

were more appropriately addressed by the BSA, than by the Commission.

Several speakers raised concerns regarding the potential increase in pedestrian and vehicular traffic generated by the full build out of the campus blocks, specifically the ability of the existing street network to handle additional vehicular traffic. Some expressed concerns about the shadows on the St. Catherine's Park. Those concerned about open space stated that the proposed development would place additional demand on the limited open space in the community and that the additional population generated by the proposed development would exacerbate the congestion on the subway station stairs of the Lexington Avenue line at East 68th Street. Some of the speakers in opposition were concerned about the volume of hazardous material generated by the proposed research facility and its impact on the neighborhood should a disaster strike the facility. Some residents, practicing physicians and scientists questioned MSKCC's stated need for proximity of the research facility to the hospital. They argued that research work could be conducted from distant locations and suggested that applicant consider alternative sites, including other MSKCC sites in the city, and Long Island City. A representative from the Roosevelt Island Development Corporation also suggested that the proposed research facility be located to Roosevelt Island where MSKCC would be renting space for its staff residences.

The representative of 10021 Coalition questioned if the proposed research facility qualified as Use Group 4, hospital related use. The representative argued that the proposed facility qualified as Use Group 17, which is not permitted in residential districts. Some stated that the proposed research facility is similar in use to that of a commercial bio-tech facility. Some of the civic groups implored the Commission to reexamine the community facility regulations.

CONSIDERATION

The Commission believes that the revised special permit (C 010548 ZSM), in conjunction with the related revised application for authorization (N 010549 ZAM), as modified herein, and the revised zoning map amendment (C 010547 ZMM) are appropriate.

MSKCC is considered one of the world's leading cancer care and research institutions. It has an operating budget in excess of one billion dollars a year and employs over 4,100 staff members. Since its inception, MSKCC has grown incrementally as-of-right through a process of demolition, renovation and enlargement of its existing facilities. It has reached a stage where it is unable to provide adequate research space and is limited in its ability to upgrade, modernize, and expand its existing facilities to meet existing and future needs. The Commission recognizes MSKCC's need to expand and upgrade its facilities, and the importance of expansion both to MSKCC and the City as a whole. The Commission notes that MSKCC has proposed a development plan that would enable it to achieve these goals. The proposed actions, as revised by the applicant and further modified herein, would enable MSKCC to undertake the first phase of its development plan and meet its urgent short-term needs, while also allowing it to undertake rational long-term planning for the expansion and modernization of its facilities, subject to appropriate review. Over the long term, this will allow MSKCC to continue to provide improved patient care and research, identify and take advantage of new scientific advances and successfully compete with other leading institutions in attracting the highest caliber staff.

Zoning Map Amendment

The Commission believes that the rezoning of the MSKCC campus midblocks, as revised, is appropriate. MSKCC revised the zoning map amendment by eliminating the midblock in the south block, between East 66th and East 67th streets, from the proposed rezoning action. The revised action would retain the existing R8 district on this midblock while rezoning the remaining midblocks between East 67th and East 69th streets from an R8 district to an R9 district.

The Commission recognizes that the MSKCC campus nearly exceeds the floor area allowed by the existing zoning. Under existing zoning, the north campus block has only 186,780 square feet of available floor area, while the main and south campus blocks are overbuilt by 41,450 square feet. This leaves only 145,390 square feet of total floor area for expansion on the campus. The Commission notes that many of the facilities on the north and main campus blocks are out-of-date and in need of upgrading and possibly replacement.

The Commission believes that the FAR permitted by an R9 district is appropriate for the MSKCC campus midblocks. The existing R8 district in the midblock permits community facility use up to 6.5 FAR, while the existing R10 district along York Avenue and C1-9 district along First Avenue permit 10.0 FAR. The proposed rezoning would allow a community facility FAR of 10.0 in the midblocks which would facilitate the construction of a new research facility on the north campus block, and allow MSKCC to undertake rational planning for its facilities on the main campus block. The Commission notes that adjacent campuses of NYPH and RU have 10.0 FAR for community facility use.

The proposed R9 district would allow 603,500 square feet of floor area on the north campus block, of which 520,200 square feet would be utilized by the new research facility and the existing St. Catherine's Church. Rezoning the north campus block to an R9 district would allow MSKCC to meet its immediate goal of constructing the new research facility. At the same time, the applicant is proposing to utilize the floor area from the north campus block for future development to the main campus block. The Commission, however, does not consider it appropriate at present to distribute floor area from the north campus block, as discussed in the related action below.

The proposed R9 district would increase the available floor area on the main campus block by 290,310 square feet. The Commission recognizes that MSKCC has proposed a development plan for the main campus block which includes replacing the nearly 30-year old Memorial Hospital, relocating and demolishing the obsolete Schwartz research facility and replacing it with a new hospital, and demolishing the Howard Building to construct new inpatient, diagnostic and treatment facilities. The Commission also recognizes that MSKCC has entirely exhausted its as-of-right development potential on the main campus block. The Commission, therefore, believes that rezoning the main campus block would provide the necessary floor area for MSKCC to develop a specific plan to expand, modernize and replace existing facilities.

The Commission also notes that the zoning amendment would rezone a remaining portion of the

north block, approximately 22,590 square feet of lot area, which is not affiliated with the MSKCC campus. The property, which is overbuilt, is part of a NYPH staff housing complex located along York Avenue between East 68th and East 69th streets. The Commission notes that the R9 district would more accurately reflect the actual built density of the site.

The Commission is pleased that the applicant, in response to concerns raised during the public review process, has revised the zoning map amendment by eliminating the south block from the rezoning application. This revised action would eliminate approximately 140,000 square feet of increased permitted floor area from the south campus block. The Commission notes that the detailed planning for the south campus block is at an early stage and that MSKCC will be focusing its resources and efforts on the north and main campus blocks. Because the concept plan for the southern block is likely to change over time as the development and expansion plans proceed on the northerly two blocks, the Commission believes that the south campus block should remain in the R8 district until the plans for this block are more concrete. The Commission notes that elimination of the southern block from the rezoning responds to the Borough President's recommendations and also addresses some of the concerns raised during the public hearing. The elimination of the south block from the rezoning addresses concerns regarding density, and significantly reduces potential environmental adverse impacts, as discussed below.

Special Permit & Authorization

The MSKCC campus located between East 66th and East 69th streets and between First and York avenues which qualifies as a large-scale community facility development (LSCFD), includes multiple zoning lots, comprising over 5.5 acres. The campus blocks are occupied by MSKCC facilities and the St. Catherine's Church, which is part of the MSKCC zoning lot on the north campus block. The zoning lots are contiguous but for their separation by East 67th and East 68th streets. The LSCFD designation allows the Commission to waive regulations regarding height and setback pursuant to Sections 79-43 and 79-21, for the new research facility on the north campus block and permits distribution of floor area pursuant to Section 79-21.

Height and Setback Modifications

According to the certified applications, MSKCC proposed a 440-foot high building envelope to facilitate the proposed research facility on the north campus block. The Commission notes that the applicant has revised the building envelope height from 440 feet to 420 feet. As revised, the building envelope would continue to include twenty-three laboratory and mechanical floors. However, these floors would reach a height of 370 feet, a 20-foot reduction. A parapet wall enclosing the mechanical bulkheads, which would rise to 400 feet, would be located above the 370-foot height, and ventilation stacks would extend to a height of 420. According to the revised application, the new research facility would rise without setback along both East 69th Street, a peripheral street in the LSCFD, and East 68th Street, an internal street in the LSCFD, and would penetrate the sky exposure plane. The Commission also notes that the 7-story addition to the new research facility would rise to a height of 141 feet and would also penetrate the required height and setback and the sky exposure plane along East 68th Street. Pursuant to R9 district regulations, an as-of-right development would be required to setback by 20 feet along a narrow street at the vertical height of 85 feet and be within the permitted sky exposure plane of 2.7 to 1. Alternatively, a development in an R9 district would be governed by the tower regulations where it could not occupy more than 40 percent of the lot area.

The Commission notes that unlike the contextual districts mapped in the midblocks in the Upper East Side, the permitted bulk form under an R9 district is determined by either the regular height and setback and sky exposure plane, or by the tower regulations. The Commission also notes that the permitted bulk form in an R9 district is similar to that of an R8 district. The Commission recognizes that a research facility built pursuant to the permitted bulk forms would not facilitate an efficient floor plate or building. Furthermore, the Commission notes that according to the FEIS, the proposed height of the research facility is lower than most of the R8 and R9 as-of-right alternatives, except the R8 as-of-right research alternative. While this alternative would achieve a somewhat lower building height than the proposed revised action, the Commission notes that it would fail to meet the programmatic needs of MSKCC, resulting in fewer and less efficient laboratory floors. This alternative also would not allow a phased

construction and would require the demolition of the existing Kettering Research Laboratory prior to relocating the lab spaces.

The Commission recognizes that the height of the new research facility results from a specific set of programmatic requirements for MSKCC and physical requirements for a modern research facility. The proposed research facility contains 23 floors, consisting of twenty laboratory and three mechanical floors, which would replace and expand the lab spaces from the Kettering Research Laboratories; reduce the lab spaces in Rockefeller Research Laboratory, relocate lab spaces from the Schwartz Building, and provide research spaces for new recruits. The Commission also notes that the laboratory floors need to maintain a minimum floor-to-floor height to allow for mechanical systems. The Commission recognizes that MSKCC has achieved the revised building height by reducing the floor-to-floor height of the laboratory floors from 16 feet to 15 feet without jeopardizing their functions.

The Commission notes that the applicant has given considerable thought to orienting the building north-south. The Commission notes that the footprint for the new research facility is constricted by the need to keep the Kettering Research Laboratory in operation until the new facility is completed, and to retain the historic St. Catherine's Church. The orientation of the building facilitates an efficient floor plate which would accommodate optimal lab modules. The orientation of the building would minimize the appearance of the building in its immediate context by presenting a more slender surface along East 68th and East 69th streets, which are narrow streets.

The Commission believes that the proposed design exhibits a good arrangement of space that meets the programmatic needs of the institution and the church. The new space for the rectory would be located within the new building adjacent to the church. A separate entrance for the rectory would be provided off of East 68th Street. A linear courtyard, accessible from both East 68th and East 69th streets, would be provided between the proposed research facility and the church. The proposed research facility would maintain entrances on both streets. The major

entrance would be located along East 68th Street, which would be closer to the existing campus facilities on the main campus block. A secondary entrance would be provided along East 69th Street. The Commission notes that the new research facility would create a presence on East 69th Street by replacing a fenced, paved yard. The Commission believes that, in consideration of the merits of the project, the programmatic needs that are accommodated by it, and the reduction in height in the revised application, the height and setback modifications are warranted.

Distribution of floor area

MSKCC proposes to distribute floor area from the north campus block to the main campus block. With the rezoning, the north campus block would have a total of 603,500 square feet of floor area, of which 520,200 square feet is proposed to be utilized with the development of the new research facility and the existing St. Catherine's Church. MSKCC is requesting a transfer to the main campus block of 83,300 square feet to a maximum 100,000 square feet, in the event the floor area of the proposed research facility is reduced. The proposed distribution of floor area to the main campus block would effectively increase its available floor area for development from 290,310 square feet to a maximum of 390,310 square feet.

The Commission reviewed the statement prepared by MSKCC which stated that the development on the main campus block would be performed in stages over time and may require future discretionary review by the Commission. The Commission, therefore, denies without prejudice the authorization to distribute floor area from the north campus block to the main campus block. The Commission considers it appropriate to review the distribution of floor area at the time when MSKCC has defined more specific plans and design for the main campus block.

Consistent with the above, the Commission also believes that as-of-right use of the permitted floor area generated by the proposed rezoning on the main campus block should be limited. The Commission believes it appropriate that MSKCC be allowed to use only 125,000 square feet of the 290,310 square feet of floor area available for development. This amount of floor area would provide MSKCC the flexibility to undertake modest enlargements and extensions in the short-

term, and it could not be transferred across district boundary to the MSKCC sites on the avenues. Any development in excess of 125,000 square feet should require further discretionary review. In this regard, the Commission is pleased that the applicant has agreed to execute a restrictive declaration which would restrict future use of the permitted floor area as discussed above. The Commission notes that this alternative was considered in the FEIS, as the “Reduced Main Campus Block Development Alternative”.

The Commission has reviewed the alternatives suggested by the Borough President and others for the MSKCC campus blocks. It believes the partial rezoning of the north block to an R9 district along East 68th Street and a height limit of 360 feet including the mechanical bulkhead would not permit the full utilization of floor area generated by the R9 portion of the block. While partial rezoning of the north block would eliminate the floor area for distribution from the north campus block to the main campus block, the Commission is concerned that the split zoning and recommended height limit would effectively result in a loss of five lab floors, undermining the programmatic objectives of MSKCC. The Commission also reviewed the Borough President’s recommended height limit on the main campus block. The Commission believes a height limit is not necessary. Under the restrictive declaration, the use of floor area on the main campus block over 125,000 square feet would require public review. In addition, the 125,000 square feet of floor area may only be used for enlargements and extensions, but not for new development. The Commission believes that the 125,000 square feet limitation, coupled with the sky exposure plane regulations, will appropriately limit the scale of enlargements and extensions.

During the public review process, the Commission also received testimony advocating an alternative massing for the proposed research facility on the north campus block which would not require a rezoning and would be lower in scale. The alternative as proposed by CIVITAS would require BSA waivers for exceeding the R8 district floor area, rear yard, lot coverage and height and setback requirements. The Commission considered this alternative and believes that it does not meet the programmatic needs of MSKCC, that it raises significant issues concerning streetwall length and height, lot coverage and rear yard conditions, and that it would create a

development with significant non-compliance.

During the public review, the Commission received extensive testimony from civic and community organizations and elected officials regarding the inappropriateness of the proposed R9 district in the midblocks. The Commission heard testimony that the proposed rezoning represents a departure from previous zoning actions, specifically the 1985 rezoning of a number of Upper East Side midblocks to an R8B district. The Commission also heard testimony that the proposed rezoning would set a precedent for future rezonings in the area.

The Commission believes that the proposed rezoning would not undermine earlier actions of the Department and Commission related to the Upper East Side. The Commission has carefully reviewed the previous zoning actions and policy decisions for the area. In 1985, the City Planning Commission approved an area-wide zoning map change (C 850539 ZMM) under which many of the midblocks of the Upper East Side were rezoned from R8 and R7 districts to an R8B district. The midblocks between First and York avenues, and East 62nd and East 71st streets were left out and were reevaluated. In 1986, based on the reevaluation, a zoning map change (C 860428 ZMM) affecting two-and-a-half block area of East 64th and East 65th streets and the south side of East 66th Streets was approved to be rezoned to R8B district.

The City Planning Commission reports state that, in general, the midblocks between East 62nd and East 71st streets did not wholly meet the Upper East Side criteria of an R8B district, except for the two-an-a half block area south of East 66th Street. The reports clearly indicate that considerable thought was given to retaining the R8 district to facilitate future expansion plans for the existing community facilities. This should not be interpreted, however, to mean that the Commission expressed a zoning policy against any potential future expansion of the community facilities beyond what can be accommodated under the R8 regulations.

The Commission firmly believes that the proposed mapping action would not set a precedent for other community facilities seeking a rezoning. The critical issue for seeking a zoning change is

whether the change has been carefully considered and is in accordance with a comprehensive plan. From this perspective, the R9 district is currently mapped in selected sections of the Upper East Side where large scale institutions similar to MSKCC exist; the zoning amendment is therefore not anomalous. The FEIS considered, in addition to the no build, nine alternatives as indicated in Chapter 18 of the FEIS. The Commission has carefully considered the zoning alternatives available for the MSKCC campus midblocks and believes that rezoning to an R9 district, in conjunction with the related actions, is appropriate.

During the public review, the Commission heard testimony questioning the “bench-to-bed” concept, and the proposed facility’s need for proximity to other MSKCC facilities, as well as suggestions that the proposed facility is similar to a commercial-bio-tech use which can locate elsewhere. Several speakers suggested that MSKCC consider alternate sites for its proposed research facility such as in Long Island City, Roosevelt Island, and the proposed bio-tech science park to be developed on a portion of a Bellevue Hospital site in Manhattan Community District 6.

The Commission notes that assessing MSKCC’s need for a bench-to-bed facility is not within its purview. However, MSKCC has made a strong demonstration that a bench-to-bed facility meets its goals and objectives of combining laboratory research with patient care.

The Commission notes that MSKCC is located in an area of Upper East Side that has a significant community facility presence, including NYPH, RU and HSS. These institutions have a synergistic relationship and a similar mission to MSKCC. The Commission accepts that proximity of these institutions encourages greater collaborative work among scientists, allows for recruitment of the best talent, and attracts more funding for scientific research work. The growth of such institutions will enable New York City to maintain a competitive edge with other cities and bolster its position in the medical field. Similarly, community facility uses related to these institutions, such as staff residences along York Avenue, are in the immediate area. The midblocks immediately to the north of campus, between East 69th and East 71st streets, are also

predominantly occupied by community facility related uses that are affiliated with NYPH. The southern edge of the campus, between East 66th and East 67th streets, is entirely developed with community facility uses. The Commission notes that unlike most Upper East Side blocks, which consist primarily of medium-density residential development dotted with local community facility use, the immediate context of MSKCC is developed with predominantly large community facility campuses. The Commission believes that the proposed expansion would allow similar facilities to locate in the area without significantly altering the surrounding land use and while providing the benefit of what MSKCC has termed 'propinquity'.

The Commission notes that the proposed research facility is distinct from a scientific research and development facility as defined under Zoning Resolution Section 74-48, which is a commercial use. The proposed research facility would be used for research by MSKCC staff that would require collaboration with its medical doctors, who are treating patients, and its research scientists, who are developing treatments. Unlike the MSKCC research facility, a scientific research and development facility under Section 74-48 is permitted only in selected commercial districts. Even though a commercial bio-tech facility depends on relative proximity to major medical facilities like the proposed research facility, it does not generally share staff with medical institutions. The Commission therefore concludes that these alternative locations would not address MSKCC's programmatic objectives.

At the public hearing, the Commission heard testimony indicating that the new research facility is analogous to uses identified in Use Group 17 and not in Use Group 4. The Commission affirms that the proposed research facility on the north campus block is a hospital-related facility which is a permitted use pursuant to the Zoning Resolution.

During the public review process, community residents expressed concern that the proposed expansion would generate significant traffic, parking, transit, open space and construction impact. The Commission notes that according to the FEIS, the revised project, as modified under the "Reduced Main Campus Block Development Alternative", would reduce certain impacts for

2007 (shadows), and others for 2011 (traffic and parking; pedestrian and transit).

In particular, the Commission notes, that according to the FEIS, the revised action, as modified under the “Reduced Main Campus Block Development Alternative”, would generate additional traffic that would warrant mitigation for several intersections in build year 2007. The Commission notes that the impact at these intersections would be mitigated through signal retiming or changing parking regulations. The revised and modified project would result in fewer vehicular trips in 2011 and could impact fewer intersections. The Commission also notes that New York City Department of Transportation (NYCDOT) will evaluate the operating conditions prior to completion in 2007 and 2011.

With regard to the incremental shadow generated by the new research facility on the St. Catherine’s Park, the Commission notes that according to the FEIS, the revised height of the research facility on the north campus block would reduce the early morning shadows. The shadows are of limited duration, would fall on the park in the early morning, and would be off the park by 9:30AM. The Commission notes that according to the FEIS, during the winter period, the proposed research facility would not increase shadows on the park. The Commission acknowledges that while the potential impact on the open space would be less with the revised and modified project as compared to the certified project, it would increase the daytime user population of the passive open space and would be an unavoidable adverse impact. The Commission is therefore pleased that MSKCC has committed to provide street trees and street furniture along East 68th and East 69th streets adjacent to the proposed research facility.

The Commission also received testimony from community residents regarding the potential danger from the hazardous material handled in the proposed research facility. The utilization and disposal of hazardous material are regulated by a variety of overseeing bodies including Occupational Safety and Health Administration (OSHA), New York state and city and other federal agencies. The objective of these regulations is to protect the staff, patient, visitors, and neighborhood. MSKCC is currently registered with and regulated by the Environmental

Protection Agency (EPA) for generating large quantity of hazardous material as defined by EPA. The hazardous chemicals are stored in a specially designed chamber and only small quantities of chemicals are kept in laboratories for immediate use. The Commission adds that MSKCC has safety personnel with responsibilities for cleanup of any hazardous chemical spills for the new research facility. The disposal of hazardous waste would be centralized under the direction of the safety personnel and be conducted in accordance with applicable regulations.

The Commission notes that all research activities at MSKCC involving the use of biohazardous agents such as infectious microorganisms, need to follow the research guidelines established by the National Institutes of Health (NIH) and Center for Disease Control (CDC). According to the FEIS, MSKCC has approval to handle Biohazard Level-3 (BL3) material, a designation applicable to clinical, diagnostic, teaching, research or production facilities. The manipulation and disposition of infectious material would be conducted in accordance with all applicable regulations.

In sum, the Commission believes that the applications as revised and further modified would meet the short-term expansion needs of MSKCC, consistent with sound land use planning, while establishing an appropriate level of review for later development under MSKCC's Phase II plans.

Other Actions

The Commission notes that the proposed new research facility requires Board of Standards and Appeals (BSA) variances for exceeding the maximum lot coverage requirement and not providing the minimum rear yard for a through lot, as well as a BSA special permit for a temporary failure to comply for exceeding the R9 permitted floor area. The Commission notes that the existing church encroaches upon the rear yard. The requested waivers would increase the area of encroachment. The Commission is also aware that the proposed research facility would temporarily fail to comply with the permitted floor area to accommodate the phasing of the Kettering Research Laboratory. The Commission notes that without the requested rear yard and lot coverage waivers, and the special permit, MSKCC would not be able to proceed with the

project as proposed.

FINDINGS

The City Planning Commission hereby makes the following findings required by Section 79-43 (Special Permit for Limited Bulk Modifications for Certain Large Scale Community Facility Developments), that the modification of regulations relating to height and setback on the periphery of the development:

- (a) is required in order to enable the large-scale community facility development to provide an essential service to the community;
- (b) will provide a more satisfactory physical relationship to the existing buildings which form the large-scale community facility development, and provide a more efficient and integrated site plan;
- (c) will better complement the existing character of the neighborhood;
- (d) will not unduly increase the bulk of buildings in any block, to the detriment of the occupants or the users of buildings in the block or nearby blocks; and
- (e) will not adversely affect any other zoning lots or streets outside the development by unduly restricting access to light and air.

RESOLUTION

RESOLVED, that having considered the Final Environmental Impact Statement (FEIS), for which a Notice of Completion was issued on November 16, 2001, with respect to this application (C 010548 ZSM), the City Planning Commission finds that the requirements of Part 617, New York State Environmental Quality Review, have been met and that, consistent with social, economic and other considerations:

1. From among the reasonable alternatives thereto, the action to be approved is one which

- minimizes or avoids adverse environmental impacts to the maximum extent practicable;
2. The adverse environmental impacts revealed in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval those mitigation measures that were identified as practicable; and
 3. The development shall include the mitigation measures identified as practicable in the FEIS, issued on November 16, 2001, for the “Reduced Main Campus Block Development Alternative” unless (a) DEP, DOT, NYCT or other agency of relevant jurisdiction has allowed further study to determine whether such mitigation is necessary or determines at a later date, based upon further study or investigation, that a mitigation is not warranted either in whole or in part; and (b) the Commission is advised in writing of such determination.

The report of the City Planning Commission, together with this FEIS, constitute the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to Section 617.11(d) of the SEQRA regulations; and be it further

RESOLVED, that the City Planning Commission, pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 79-43 of the Zoning Resolution to allow the modification of the height and setback regulations along a portion of the south side of East 69th Street on the periphery of a large-scale community facility development, generally bounded by East 69th Street, York Avenue, East 66th Street, and First Avenue (Block 1461, Lots 13 and 21, Block 1462, Lots 1 and 5, and Block 1463, Lots 5 and 11), in an R9 District, Borough of Manhattan, Community District 8, is approved subject to the following conditions:

1. The development that is subject of this application (C 010548 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications, and zoning computations indicated on the following plans, prepared by Skidmore, Owings & Merrill, LLP, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
Z-1	Zoning Calculations, Floor Area Schedule	November 28, 2001
Z-2	Zoning Notes	November 28, 2001
Z-3	North/South Building Sections for Height and Setback	November 7, 2001
Z-6	Proposed Campus Roof Plan	November 28, 2001
Z-7	Ground Floor Plan	November 7, 2001

2. The development shall be pursuant to all conditions set forth herein, in conjunction with modifications granted pursuant to variance and special permit of the Board of Standards and Appeals pursuant to BSA No. 130-01BZ.

3. The development shall include the mitigation measures identified as practicable in the FEIS, issued on November 16, 2001, for the “Reduced Main Campus Block Development Alternative” unless (a) DEP, DOT, NYCT or other agency of relevant jurisdiction has allowed further study to determine whether such mitigation is necessary or determines at a later date, based upon further study or investigation, that a mitigation is not warranted either in whole or in part; and (b) the Commission is advised in writing of such determination.

4. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown the plans listed above which have been filed with this application, and modifications granted pursuant to variance and special permit of the Board of Standards and Appeals pursuant to BSA No. 130-01BZ . All zoning computations should be subject to verification and approval by the New York City Department of Buildings.

5. Such development shall conform to all applicable laws and regulations relating to its construction, operation, and maintenance.

6. All leases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee or occupant. The development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown the plans listed above which have been filed with this application. All zoning computations subject to verification and approval by the New York City Department of Buildings.
7. Development pursuant to this resolution shall be allowed only after the attached Restrictive Declaration, and marked as Exhibit A hereto, as modified with any necessary administrative and technical changes acceptable to counsel to the Department, is executed by the Memorial Sloan Kettering Cancer Center, and such declaration shall have been recorded and filed in the Office of the Register of the City of New York, County of New York.
8. Upon failure of any party having any right, title or interest in the property that is the subject of this application, or failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions agreements, terms or conditions of the special permit hereby granted, the City Planning Commission may, upon due notice, without consent of the any other party, revoke any portion of all of said such special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency or government, or any private person or entity. Any such failure as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission of the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted.
9. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's failure to act in

accordance with the provisions of this special permit.

The above resolution (C 010548 ZSM), duly adopted by the City Planning Commission of November 28, 2001, (Calendar No. 2), is filed with the Office of the Speaker, City Council, and Borough President together with a copy of the plans of the development, in accordance with the requirements of Section 197-d of the New York City Charter.

JOSEPH B. ROSE, Acting Chairman
ANGELA M. BATTAGLIA, IRWIN G. CANTOR, P.E., ANGELA R. CAVALUZZI, R.A.,
KATHY HIRATA CHIN, ESQ., ALEXANDER GARVIN, KENNETH J. KNUCKLES,
ESQ., JOHN MEROLO, Commissioners

Kenneth M. Moltner
Chair

Victoria Caramante
District Manager



✓ c: Stamp
MS
OFFICE OF THE
CHAIRPERSON
JUL 23 2001
389

505 Park Avenue
Suite 620
New York, N.Y. 10022,
(212) 758-4340
(212) 758-4616 (Fax)
www.decny.com/cb8 - Website
CB8M@aol.com - E-Mail

The City of New York
Manhattan Community Board 8

July 19, 2001

Joseph B. Rose
Director
City of New York
Department of City Planning
22 Rector Street
New York, New York 10007

RECEIVED
JUL 24 2001
MANHATTAN OFFICE

Re: **Memorial Sloan Kettering Cancer Center Campus Rezoning**
ULURP Nos., 010547 ZMM, 010548 ZSM, 010549 ZAM & 010550 ZCM,
BSA No., 130-01-BZ

Dear Mr. Rose:

Manhattan Community Board No. 8 adopted the following resolution regarding Memorial Sloan Kettering Cancer Center Campus Rezoning at its July 18, 2001 Full Board meeting by a vote of 22 in favor, 19 opposed, 2 abstentions.

Whereas the MSK R9 upzoning application reverses the 1985 Zoning Legislation for Upper East Side midblocks, namely, that residential side streets have future buildings of lower height and density than avenues and wide streets in order to preserve some residential quality of life of those streets which were rezoned from R8 to R8B; and

Whereas that Zoning Plan already made an exception for the hospital blocks in order to accommodate their future expansion needs, that kept R8 zoning in for a number of blocks including 66th-69th Streets towards 1st Avenue which zoning allows the hospital and other institutions to build taller buildings; and

Whereas under current R8 zoning, variance and waivers may be sought and granted appropriately at the Board of Standards and Appeals; and

Whereas R9 zoning exists nowhere on the Upper East Side residential midblocks and therefore this application establishes a precedent which will surely encourage more upzoning applications from other institutions on midblocks of which we have many in our district; and

Joseph B. Rose
July 19, 2001
Page 2

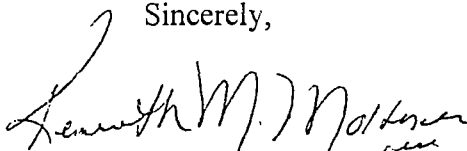
Whereas, MSK has asked for an open-ended R9 development not just for this one research tower but for all streets 66th Street through 69th Street, York to 1st with no plans presented and this upzoning, if granted, may be used to transfer air rights among these blocks; and

Whereas, this MSK application results in a larger number of serious, negative impacts upon the neighboring community, St. Catherine's Park, and is the stated reason for the request for the relocation of a local pre-school which has served the Community well for the last 30 years; and

Whereas, reasonable alternatives to the MSK R9 upzoning have been offered, more may still be forthcoming, which ameliorate and truly mitigate some of the adverse environmental impacts, and these alternatives need to be given further and careful consideration;

Therefore, be it resolved Community Board 8 should deny this R9 application.

Sincerely,



Kenneth M. Moltner
Chair

/em

Signed original sent to James Chin, Chairman, NYC Board of Standards and Appeals

cc: Hon. Rudolph Giuliani
Hon. C. Virginia Fields
Hon. Carolyn Maloney
Hon. Roy Goodman
Hon. Alexander Grannis
Hon. John Ravitz
Hon. A. Gifford Miller
Hon. Eva Moskowitz
Shelly Friedman, Friedman & Gotbaum

VC: MS
SE
Manhattan

Borough President Recommendation

City Planning Commission
22 Reade Street, New York, NY 10007
Fax # (212) 720-3356

INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address
2. Send one copy with any attachments to the applicant's representative as indicated on the Notice of Certification.

Application # C010547 ZMM, C010548 ZSM, N010549 ZAM, N010550 ZCM

Docket Description

The applicant, pursuant to sections 197-c and 201 of the New York City Charter requests

- 1) An amendment of the Zoning Map, Section Nos 8c and 9a, changing from an R8 District to an R9 District property bounded by East 69th Street, a line 100 feet west of York Avenue, East 66th Street, and a line 100 feet east of First Avenue.
- 2) The grant of a special permit pursuant to Section 79-43 of the Zoning Resolution to allow the modification of the height and setback regulations along a portion of the south side of East 69th Street on the periphery of a large-scale community facility development, generally bounded by East 69th Street, York Avenue, East 66th Street and First Avenue (Block 1461, Lots 13 and 21, Block 1462, Lots 1 and 5, and Block 1463, Lots 5 and 11)

COMMUNITY BOARD NO : 8

BOROUGH: Manhattan

RECOMMENDATION

- APPROVE
- APPROVE WITH MODIFICATIONS/CONDITIONS (List below)
- DISAPPROVE

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MANHATTAN OFFICE
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EXPLANATION OF RECOMMENDATION - MODIFICATION/CONDITIONS (Attach additional sheets if necessary)

South Block (Block 1461):

1. The R9 rezoning request for the southern block (#1461) is denied; and,

Center Block (Block 1462): The R-9 zoning request is approved.

2. The applicant has expressed an interest to commit to a maximum height of 175 feet for any future mid block development and 300 feet along the avenues; and,

Northern Block (Block 1463): The R-9 is approved with modification as follows

3. An east-west line should be drawn across the northern block (#1463) thereby retaining the current R8 status on the northern half while the southern half is rezoned to R9; and,
4. Any new buildings on the northern block cannot exceed a maximum height of 360 feet including mechanicals; and
5. There should be a restrictive declaration required to include an obligation that any future use of the floor area generated by these zoning actions cannot be transferred to the southern block(#1461) without being subject to a full land use review, and
6. As part of the restrictive declaration, MSK agrees to not transfer any leftover floor area over from the north building as a result of the FAR increasing from 6.5 in R8 to 10 in R9, and,
7. As part of the restrictive declaration, the R9 shall be limited to community facility uses only.

Virginia Fields FB

BOROUGH PRESIDENT

8/21/2001
DATE

THE CITY OF NEW YORK
OFFICE OF THE PRESIDENT
BOROUGH OF MANHATTAN

C. VIRGINIA FIELDS
BOROUGH PRESIDENT

August 21, 2001

ULURP NO:

C010547ZMM
C010548ZSM

Related to:

N010549ZAM
N010550ZCM

APPLICANT:

Memorial Sloan-Kettering Cancer Center
1275 York Avenue
New York, NY 10021

REQUEST:

The applicant, pursuant to sections 197-c and 201 of the New York City Charter, requests:

- 1) An amendment of the Zoning Map, Section Nos. 8c and 9a, changing from an R8 District to an R9 District property bounded by East 69th Street, a line 100 feet west of York Avenue, East 66th Street, and a line 100 feet east of First Avenue.
- 2) The grant of a special permit pursuant to Section 79-43 of the Zoning Resolution to allow the modification of the height and setback regulations along a portion of the south side of East 69th Street on the periphery of a large-scale community facility development generally bounded by East 69th Street, York Avenue, East 66th Street, and First Avenue (Block 1461, Lots 13 and 21, Block 1462, Lots 1 and 5, and Block 1463, Lots 5 and 11).

PROJECT BACKGROUND/DESCRIPTION:

The applicant, Memorial Sloan Kettering Cancer Center (MSK), in its pursuit to upgrade its research facilities, requests a zoning map amendment for the three blocks that its campus occupies. from a R8 to R9 zoning district and to designate the campus as a Large Scale Community Facility development.

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CITY OF NEW YORK

The proposed new research facility will consist of a 440-foot, or 23-story, building that has its primary entrance on East 68th Street with a secondary entrance on East 69th Street. The proposed building will be built to the street line at East 68th and 69th Streets and rise the entire height without setting back.

MSK is seeking two variances and a special permit from the Board of Standards and Appeals (BSA) in conjunction with the above CPC actions. The variances are required because MSK's new research facility exceeds the maximum permitted lot coverage area and is not in compliance with rear yard equivalent requirements allowed in a R8 or R9 zoning. MSK also seeks approval of a special permit for a temporary failure to comply with zoning district regulations because it will exceed the maximum allowable floor area at the Site when such time occurs that the new research building is complete and the Kettering Building is not yet demolished.

SUMMARY OF COMMUNITY BOARD ACTION:

At a regularly scheduled board meeting on July 18, 2001, CB # 8 voted to deny the R9 application with 22 in favor, 19 opposed, and 2 abstentions.

The resolution stated that this application, if approved, would reverse the 1985 Zoning Legislation for Upper East Side mid-blocks which aimed to protect the lower height and density that is typically found on mid streets.

On July 16, 2001, an earlier resolution written by the Special Committee on MSK voted to approve the R9 upzoning for the entire three blocks as requested by the applicant subject to conditions with 9 in favor, 6 opposed and 1 abstention.

BOROUGH PRESIDENT ACTION:

The Manhattan Borough President recommends approval.

The Manhattan Borough President recommends disapproval.

The Manhattan Borough President recommends approval, subject to the recommendation detailed below.

The Manhattan Borough President recommends disapproval, unless the conditions detailed below are addressed as described

COMMENTS:

MSK is a world-renowned institution fighting the battle to cure cancer. The Borough President recognizes MSK's need to remain a leader in the cancer research field and believes that in order to do so it must modernize and expand its current facilities. In their application, MSK requests a remapping from an R-8 to an R-9 for three blocks, the north block, where the present development will take place, the center block, where their main campus is located, and the southern block, to facilitate the development of their new cancer research center. MSK meets the criteria of a large-scale community facility, and is situated among other large medical institutions

in CB8 that are zoned R9. MSK's campus is largely located in an institutional area with few low-rise residential buildings.

The Upper East Side is also home to some hundreds of thousands of residents who wish to maintain the quality of life in their neighborhood. In recognition to some strong opposition to MSK's proposal, the Borough President convened several meetings with the Community Board 8, CIVITAS, civic organizations represented by the 10021 Community Coalition and representatives of MSK. Individuals felt strongly that a rezoning of these three blocks from the current R-8 to R-9 would establish a precedent for other institutions; that long term construction would create traffic and noise disruption; and that the new buildings would cast shadows upon the local park and school playground. The Borough President is cognizant of these issues and sensitive to the seriousness of the concerns. However, the Borough President believes with deliberate planning that this development will enhance the institution and at the same time be an asset to the community. Therefore, the Borough President makes the following recommendations.

South Block

On the southern block, Block 1461, (Between East 66th Street and East 67th Street) the applicant has not proposed any development plans. There are no concrete designs and no plan to start construction. MSK's buildings on the south block are built to capacity. Few details were provided, therefore, the Borough President finds that the rezoning request is inappropriate and that MSK can reapply for a zoning text change for the southern block in the future once a master plan has been solidified.

Center Block

The center block, Block 1462, (Between East 67th and East 68th Street) is the campus block where the majority of MSK's property is situated. MSK cannot generate or reuse any existing floor area on this block without having to demolish existing buildings, which would compromise ongoing patient care and cancer research. While the large scale community facility designation exists to permit institutions such as MSK to expand their campuses, the lack of floor area under the present zoning (R8) makes such planning virtually meaningless. Therefore, under the existing R-8 zoning there is no opportunity for MSK to expand in the mid-block.

MSK states that with a rezoning of the mid-block to R9 it will enable it to achieve two important objectives: first, it will allow small (10,000 – 15,000 sf) incremental expansion of the existing facilities to occur when necessary to its operations. Second, it will permit long range planning to occur with regard to the medium and long-term replacement of the existing facilities on the main campus block. It has identified the first project to be the replacement of the Schwartz Building on First Avenue and associated buildings on East 68th Street for the development of a new hospital building which will be used to permit the relocation of hospital beds from the present Memorial Hospital building on York Avenue, so that the Memorial Hospital building can be modernized. The floor area provided by the rezoning will permit the planning for this new development to occur.

However, the Borough President believes MSK should not develop this new floor area without restrictions. There are issues regarding the height and massing of this new floor area which MSK proposes must be addressed in such a way as to eliminate uncertainty to the community and its elected officials regarding the shape that this new floor area will take.

The Borough President notes there are presently no height limitations on the avenues (First and York) therefore the applicant at this time could build in excess of 500 feet. There is concern that forcing MSK to consider developing only its avenues in its future growth could lead to excessively tall and massive buildings on the avenues.

As a rule, the Borough President will not support a rezoning to R9 on a Manhattan mid block. In this case, however, the applicant is a medical research institution and hospital, which controls the entire block under consideration. As the owner of the entire block the applicant has shown its willingness to commit to controls to limit development not only on the mid block portion of the block but also on the York and First avenue portions which are not part of this application. The controls will create height limitations of 300 feet on the avenues and 175 feet in the mid-block that cannot be exceeded without further public review. Thus the main campus block will be limited in height and bulk protecting the community from oversized towers on the avenues and any tower on the mid-block.

North Block

On the northern block, Block 1463, (Between East 68th and East 69th Street) the applicant plans to construct its new cancer research center. This building abuts on the northern end, a predominately low-rise residential block. The Borough President understands the need for a research facility, but she believes the tower is too tall and should be reduced. Although the applicant has applied for a R9 mid-block zoning, the Borough President understands that a lower tower can be built without providing R9 zoning to the entire northern block. The Borough President believes that the research tower satisfying MSK's needs can be built by providing R9 on the southern portion of the northern block and retaining the R8 on the northern half. By retaining the R8 on the northern half, less floor area is generated from the MSK site as well as the other lots along East 69th Street should they redevelop. In order to keep the tower as low as possible, the Borough President recommends limiting the height of the building to a maximum of 360 feet as described in the Unified Bulk Proposal and supported by the Community Board Land Use committee vote.

The Manhattan Borough President therefore recommends approval of a portion of the rezoning subject to the following conditions:

South Block (Block 1461):

1. The R9 rezoning request for the southern block (#1461) is denied; and,

Center Block (Block 1462): The R-9 zoning request is approved.

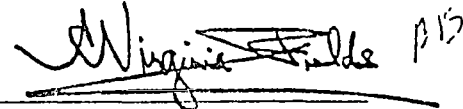
2. The applicant has expressed an interest to commit to a maximum height of 175 feet for any future mid block development and 300 feet along the avenues; and,

Northern Block (Block 1463): The R-9 is approved with modification as follows.

3. An east-west line should be drawn across the northern block (#1463) thereby retaining the current R8 status on the northern half while the southern half is rezoned to R9; and,
4. Any new buildings on the northern block cannot exceed a maximum height of 360 feet including mechanicals; and

5. There should be a restrictive declaration required to include an obligation that any future use of the floor area generated by these zoning actions cannot be transferred to the southern block(#1461) without being subject to a full land use review; and,
6. As part of the restrictive declaration, MSK agrees to not transfer any leftover floor area over from the north building as a result of the FAR increasing from 6.5 in R8 to 10 in R9; and,
7. As part of the restrictive declaration, the R9 shall be limited to community facility uses only.

Report and Recommendation
Accepted:

A handwritten signature in black ink, appearing to read "C. Virginia Fields", is written over a horizontal line. To the right of the signature, the number "15" is handwritten.

C. Virginia Fields
Manhattan Borough President

DECLARATION

Declaration made as of this ___th day of December, 2001 by Memorial Hospital for Cancer and Allied Diseases ("Declarant"), a New York not-for-profit corporation having its principal office at 1275 York Avenue, New York, NY 10021.

WITNESSETH

WHEREAS, Declarant is the fee owner of certain real property located in the County of New York, designated for real property tax purposes as Lot 5 of Tax Block 1462 (the "Lot"), a portion of which is located within a current R8 zoning district as set forth in the Zoning Resolution of the City of New York (the "Zoning Resolution"), such portion herein referred to as the "Main Campus Midblock", and both the Lot and the Main Campus Midblock being more particularly described in Exhibit "A", annexed hereto, and made a part hereof;

WHEREAS, Chicago Title Insurance Company has certified as of _____, 2001 that, as of the date hereof, Declarant is the sole party-in-interest, as that term is defined in the definition of "Zoning Lot" in Section 12-10 of the Zoning Resolution of the City of New York, to the Lot, which comprises a Zoning Lot under said Zoning Resolution, and a copy of such certification is attached hereto as Exhibit B; and

WHEREAS, all parties-in-interest to the Lot have executed this Declaration; and

WHEREAS, Declarant, has submitted an application to the City Planning Commission of the City of New York ("CPC"), designated by the CPC as ULURP #10547ZMM (revised), to, inter alia, amend the Zoning Map as it applies to the Main Campus Midblock from an R8 zoning district to an R9 zoning district (the "Zoning Map Amendment"); and

WHEREAS, the amount of floor area as defined in the Zoning Resolution available to Declarant for use on the Main Campus Midblock as a result of the Zoning Map Amendment will increase by 290,310 square feet (the "New Floor Area"); and

WHEREAS, Declarant desires to restrict the development and use of the New Floor Area on the Main Campus Midblock; and

WHEREAS, Declarant represents and warrants that there is no

restriction of record on the use of the Lot, nor any present or presently existing estate or interest in the Lot, nor any lien, obligation, covenant, limitation or encumbrance of any kind that would prevent or preclude the imposition of the restrictions, covenants, obligations and agreements of this Declaration or the development of the Main Campus Midblock in accordance herewith; and

WHEREAS, the terms "floor area", "develop/development", "enlarge/enlargement", "use/uses", "extend/extension" and "zoning lot" shall have the meanings set forth in Section 12-10 of the Zoning Resolution;

NOW, THEREFORE, Declarant does hereby declare that the Main Campus Block shall be held, sold, transferred, conveyed and occupied subject to the following restrictions, covenants, obligations and agreements which shall run with the Lot and be binding upon Declarant, its successors and assigns:

1. Restriction on Development and Use of New Floor Area. Declarant may use up to 125,000 square feet of the New Floor Area for the enlargement or extension of any building in the Main Campus Midblock in existence as of the date of this Declaration in any manner permitted by the Zoning Resolution as a matter of right. Such use shall not require any form of modification or amendment to this Declaration, provided that Declarant shall provide the Department of City Planning with copies of plans and drawings showing zoning computations for any such enlargement or extension no later than 30 days after an Alteration Permit therefor has been issued by the Department of Buildings. Declarant covenants that it shall not use any New Floor Area in a manner not permitted under this paragraph 1 except pursuant to a modification or amendment to this Declaration pursuant to paragraph 6 hereof.

2. Restriction on Sale of Excess Floor Area. Declarant covenants that it shall not sell, transfer, convey or assign in any manner whatsoever the New Floor Area for development on another zoning lot which it does not own or control.

3. Effective Date and Enforcement. This Declaration and the provisions hereof shall become effective upon the approval by the City Council of C010547ZMM (revised) and C010548ZSM (revised). The Declarant covenants to file and record this Declaration in the Office of the Register of the City of New York, County of New York (the "Register"), indexing it against the Lot, within five (5) business days of approval by the City Council. The Declarant shall, following the recordation of this Declaration, promptly deliver to the CPC a true copy hereof, as recorded, and certified by the Register. If the Declarant fails to so record and deliver this Declaration, the CPC or any other agency of the City may cause this Declaration to be recorded and request certified copies of the recorded Declaration, all at the sole cost and expense of the Declarant, and the Declarant shall immediately upon request pay to the CPC the costs of having this Declaration recorded and purchasing a reasonable number of certified copies of the recorded Declaration, as applicable.

4. Applications to City Agencies. The Declarant shall include a copy of this Declaration as part of any application to the Department of Buildings or any other agency of the City relating to the Lot or any portion thereof.

5. Remedies. The City shall have the sole right to exercise any and all of its administrative, legal and equitable remedies in the event Declarant fails to perform any of its obligations under this Declaration. Declarant consents to enforcement by the City, administratively at law or at equity, of the covenants, obligations, restrictions and agreements contained herein. Notwithstanding anything to the contrary contained in this Declaration, the City will look solely to the estate and interest of Declarant in the Lot, on an in rem basis only, for the collection of any money judgment recovered against Declarant, and no other property of Declarant shall be subject to levy, execution or other enforcement procedure for the satisfaction of the remedies of the City with respect to this Declaration, and Declarant shall have no personal liability under this Declaration.

6. Amendment, Modification and Cancellation. This Declaration may be amended, modified or canceled only upon the approval of the CPC or its successor agency, and, if it determines to review a proposed amendment, modification or cancellation, the City Council of the City of New York. No other approval or consent shall be required from any other public body, private person, or legal entity of any kind. Notwithstanding the foregoing, as to anything contained in this Declaration, the Chairperson of the CPC may administratively approve what are deemed by him or her to be minor modifications to this Declaration, which shall not be deemed modifications or amendments requiring the approval of the CPC or any other governmental agency. An amendment to or modification of Paragraph 1 or 2 hereof shall not be considered a minor modification. A signed statement certifying the Chairperson's approval of the minor modification shall be included at the end of the modified or amended Declaration. Following approval of a modification, amendment or cancellation of this Declaration, Declarant shall immediately file and record it, supply the CPC with one (1) copy, and permit its filing and recording in the manner described in the last two sentences of Paragraph 3 hereof.

7. Covenants Running with the Land. The provisions of this Declaration shall be considered covenants running with the land, and shall inure to the benefit of and be binding upon all heirs, successors, assigns, legal representatives, and mortgagees in possession of Declarant's interest in the Lot and any improvements thereon. However, notwithstanding the foregoing, the restrictions, covenants, and obligations of this Declaration shall be binding upon Declarant or any other individual or entity only for the period during which Declarant or said individual or entity is a party in interest in the Lot. References to "Declarant" shall be deemed to refer to the named Declarant, its heirs, successors, assigns, legal representatives and mortgagees in possession, each to the extent of their respective interest in the Lot. References in this Declaration to agencies or instrumentalities of the City of New York shall be deemed to include agencies or instrumentalities succeeding to the jurisdiction thereof, pursuant to the laws of the State of New York and the City of New York.

8. Subordination Declarant shall cause every individual, business organization or other entity that between the date hereof and the date of recordation of this Declaration becomes a party-in-interest to the Lot, which comprises a Zoning Lot for purposes of the Zoning Resolution, to execute this Declaration or to subordinate such interest to the Declaration and waive its right to execution. Any mortgage or other lien encumbering the Lot after the recording date of this Declaration shall be subject and

subordinate hereto.

IN WITNESS THEREOF, Declarant has executed this Declaration as of the date first above written.

MEMORIAL HOSPITAL FOR CANCER AND ALLIED DISEASES

By: _____

Name:

Title:

STATE OF NEW YORK)

: ss.:

COUNTY OF NEW YORK)

On this ___th day of December in the year 2001 before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

EXHIBIT A

LEGAL DESCRIPTION - BLOCK 1462 LOT 5

LEGAL DESCRIPTION - MAIN CAMPUS MIDBLOCK (PORTION OF LOT 5)

EXHIBIT B

ZONING LOT CERTIFICATION

Friedman & Gotbaum, LLP
568 Broadway Suite 505