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COMMUNITY BOARD NO. 2, MANHATTAN

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January 25, 2019

Marisa Lago, *Chair*
City Planning Commission
22 Reade Street
New York, NY 10007

Maria Torres-Springer, *Commissioner*
Dept. of Housing, Preservation & Development
100 Gold Street
New York, NY 10038

Dear Chair Lago and Commissioner Torres-Springer:

At its Full Board meeting on January 24, CB#2, Manhattan (CB2, Man.), adopted the following resolution:

Resolution to Deny the City's Application for the Disposition of City-Owned Land and UDAAP Designation for the Proposed Haven Green Development on the Elizabeth Street Garden site and in Support of Permanently Saving the Garden and Building Substantially More Senior Housing at an Alternative Site, Only If the Garden is Saved in Its Entirety

Re: ULURP Application 190184 HAM for 199-207 Elizabeth St./ 222-230 Mott Street, Block 493, Lot 30, 20,000 sq. ft. through lot from Elizabeth Street to Mott Street between Spring and Prince Streets



Introduction:

1. Community Board 2's standing position supports a permanent public park at Elizabeth Street Garden, a heavily used and unique public green open space in a neighborhood the city defines as "underserved" by open space;
2. Nearly 6 years ago, CB 2 discovered that Elizabeth Street Garden was designated as offsite affordable housing for seniors outside the "foot print" of the large 2012 Seward Park Mixed-Use Development Project (now Essex Crossing) located entirely within CB 3, even though the Garden is entirely located within CB 2. CB 2 was never notified or consulted despite hundreds of public meetings between 2008 and 2012 focused on the Essex Crossing project.
3. CB 2 agrees with the need for more Senior AH and offered an Alternative Site -- a city-owned gravel-filled lot promised to CB 2 as a park nearly 20 years ago that could accommodate four to five times as much Senior AH -- but *only if* the Garden is preserved *in its entirety*, a similar win-win park and housing switch that Mayor de Blasio and Speaker Corey Johnson made in Chelsea;
4. Despite four CB 2 resolutions¹ in support of saving the Garden and significant support from city-wide, state and federal elected officials, the city and Council Member Chin have refused to consider the Alternative Site nor any other options proposed by the community as alternatives to this plan of destroying the Garden;
5. Since June 2018, CB 2's Elizabeth Street Garden Working Group has held three public hearings, each attended by more than 250 people who have overwhelmingly supported saving the Garden and building more Senior AH at the Alternative Site;
6. The Applicant's Proposed Development will cover nearly 70% of the Garden site, a portion by a one-story building, and leave behind a tiny-shadow-filled privately-owned open space that fails to meet the RFP's stated goal to recreate the Gardens current features;
7. The Proposed Development is flawed because it a) creates significant adverse environmental impacts, including the reduction of open space by more than 2% in an underserved neighborhood, b) relies on the designation of a beautiful, heavily-used and unique green open space as "blighted," c) sells a city-owned educational asset for \$1 for non-permanent affordable housing and d) because a major portion of this site was dedicated by its owner, the Public School Society, in 1822 to use for educational purposes in perpetuity, and because the City took title to the property in 1853 subject to that restriction, the Garden should and must be preserved as educational parkland or be otherwise rededicated to permanent public use as an educational garden; and,
8. CB 2 believes that the best solution will be to save Elizabeth Street Garden in its entirety and build affordable housing at the Alternative Site at 388 Hudson Street, preserving much needed open space and building more Senior Affordable Housing -- both needed in our community.

Whereas:

1. CB 2 is reviewing an application by the NYC Department of Housing Preservation & Development (HPD) to dispose of city-owned land and designation of the site as "blighted" so that Pennrose, RiseBoro and Habitat for Humanity (the Development Team) can construct a

¹ CB 2 passed four resolutions in support of saving Elizabeth Street Garden in its entirety on January 23, 2014, August 20, 2015, December 17, 2015 and February 18, 2016, available at <https://www1.nyc.gov/html/mancb2/html/esgwg/elizabeth-st-garden-working-group.shtml>.

- mixed-used project consisting of Senior Affordable Housing (Senior AH), retail and below market office space (the Proposed Project) on the site of Elizabeth Street Garden;
2. Elizabeth Street Garden (ESG or the Garden) is a heavily used open space in an area that has almost none and is part of the only Lower Manhattan neighborhood that the city defines as “underserved” by open space;
 3. The Garden has nearly a 200-year history as a public space:
 - a. The Public School Society built Public School No. 5 on a major portion of the Garden site in 1822 and dedicated its use for educational purposes in perpetuity, and in 1853, the city took title to the property subject to this restriction;
 - b. The school was rebuilt and expanded in 1903 and 1927, torn down in the 1970s and in 1981, the city sold 65% of this expanded school site for \$275,000 for 151 units of Section 8 affordable housing and the remaining site was to be maintained “exclusively for recreational use;”
 - c. In 1991, Elizabeth Street Gallery leased this site and created a beautiful garden; and,
 - d. In 2013, local park advocates sought to create more green space in the park-starved Little Italy neighborhood, approached CB 2, and with consent of the lessee of the Elizabeth Street Garden, opened the Garden to the public;
 4. Only after being approached by the park advocates in summer 2013, CB 2 discovered that Council Member Margaret Chin had negotiated a non-public side-letter agreement with the city dated September 27, 2012 stating that the Garden site was “suitable” for affordable housing after the city “reviewed” her “recommendations,” all in conjunction with the 2012 Seward Park Mixed-Use Development Project (now Essex Crossing), even though:
 - a. The Garden is located in CB 2 and the very large Essex Crossing is located entirely in Community Board 3;
 - b. Neither the city nor Council Member Chin held any public meetings concerning the Garden site despite extensive public meetings associated with the Essex Crossing project;² and,
 - c. Council Member Chin never informed Community Board 2 that she supported developing Senior AH on this offsite location despite discussing and sharing her recommendations with the city prior to September 2012;
 5. From 2013 to 2016, CB 2 held four public hearings where overwhelming support was for saving the Garden, and CB 2 passed four resolutions in support of permanently preserving the Garden in its entirety as an open space, under the jurisdiction of NYC Department of Parks and Recreation (NYC Parks);
 6. Having recognized the significant importance of the Garden, in 2015, CB 2 identified a DEP owned water tunnel site which has been designated as future parkland for nearly 20 years, and realized this would be a better alternative on which to build Senior AH; CB 2 decided to offer support for this alternative city-owned site for Senior AH, notably *only if* ESG is preserved *in its entirety*; note that this is a significant sacrifice for CB2’s park starved community; the alternate site is located less than one mile from ESG, at 388 Hudson Street at Clarkson (the Alternative Site), which:
 - a. Could produce four to five times as much Senior AH than the ESG site if it were built to the FAR permitted in the adjacent Special Hudson Square District;

² The Economic Development Corporation and Community Board 3 list public documents and meetings at <https://www.nycedc.com/project/essex-crossing-development-seward-park> and <http://www.nyc.gov/html/mancb3/html/landuse/landuse.shtml>.

- b. But because it was promised as open space nearly 20 years ago after the NYC Department of Environmental Protection (DEP) completed its work for Water Tunnel No. 3. CB 2 supports use of the Alternative Site for Senior AH *only if* ESG is permanently saved *in its entirety*, a similar win-win park and housing switch that Mayor de Blasio and Speaker Corey Johnson made in Chelsea, funding both a new park on West 20th Street and 234 units of affordable housing on a larger city-owned site two miles north.
7. In 2016, recognizing the importance of building more Senior AH in “high opportunity” neighborhoods, CB 2 also supported the development of 178 units of Senior AH as part of the 550 Washington Rezoning;
8. Council Member Chin and Mayor de Blasio’s administration, through Deputy Mayor Alicia Glen, have refused to consider the Alternative Site, nor other alternatives presented by the community, thus passing up the opportunity to increase Senior AH by four to five times and save ESG;
9. Nearly every city, state and federal elected official in Lower Manhattan who represent the Garden -- Rep. Jerrold Nadler; Rep. Nydia Velazquez; State Sen. Brad Hoylman; State Sen. Brian Kavanaugh; Assemblymember Deborah Glick; Assemblymember Yuh-Line Niou; NYC Comptroller Scott Stringer; Former NYC Public Advocate Letitia James -- publicly supports saving ESG and, instead, developing affordable housing on the Alternative Site, a win-win for all parties involved;
10. In 2018 and 2019, the Elizabeth Street Garden Working Group (Working Group) held three public meetings, each attended by more than 250 people, and, while many citywide housing advocacy groups spoke in favor of the project, almost all local residents and business owners from the district supported saving 100% of the Garden; and furthermore,
11. CB 2 requested an Environmental Impact Statement (EIS) in lieu of of an Environmental Assessment Statement (EAS), which would have examined in depth several environmental issues in depth and allowed CB 2 to hold public scoping meetings; however, this request was rejected in spite of HPD’s insistence that it wanted full and transparent community input;

Open Space

12. The Proposed Development provides 6,700 square feet of privately-owned publicly-accessible open space that will be substantially covered in shadows for most of the day year-round due to a) its awkward L-shape, b) shadows from the 7-story Proposed Development and c) lack of southern sunlight blocked by the adjacent building and the mature trees in its courtyard (Shaded Open Space);
13. The Proposed Development fails to achieve the objectives of the RFP, which states “HPD recognizes that the space has become an important neighborhood amenity, as community members have come to value the lawns, trees and gardens as beautiful open space....[and so]...This public open space should, to the greatest extent possible, re-create current features such as lawns, trees, walks, and planting and seating areas with a variety of sun and shade conditions, and also to provide for continuation of current educational and recreational programs and events”;
14. The Proposed Development and presented renderings a) falsely attempt to classify the Breezeway as “open space,” even though it is not “unobstructed from the sky,” b) do not include required ADA circulation paths, which when added, will further significantly reduce any space for a grassy lawn, nor c) provide access from both Mott and Elizabeth streets, nor d)

- include any legitimate operating plans and policies for the Shaded Open Space, resulting in a number of unanswered questions regarding public access times and methods, rules regarding smoking and leashed pets, etc., as well as legal and management structure and because of these unanswered questions, meaningful community input on the Open Space will come after ULURP when the community will have no leverage;
15. Because a major portion of this site was dedicated by its original owner, the Public School Society, in 1822 to use for educational purposes in perpetuity, and because the City took title to the property in 1853 subject to that restriction, the Garden should and must be preserved as educational parkland or be otherwise rededicated to permanent public use as an educational garden;
 16. The Garden is located in the only Lower Manhattan neighborhood that the NYC Parks Department defines as “underserved” by open space³ with an open space ratio of 0.13 acres of open space per 1,000 residents, well below the community district median of 1.5 acres per 1,000 residents and the city goal of 2.5 acres per 1,000 residents; and furthermore, CB 2 has one of lowest open space ratios in NYC at 0.60 acres per 1,000 residents, and Little Italy and SoHo have only 0.07 acres per 1,000 residents or 3 square feet per person -- about the size of a subway seat;
 17. The Proposed Development would destroy 100% of the Elizabeth Street Garden and result in a loss of nearly 70% of the existing open space in the new configuration, a substantial loss in a community and neighborhood so underserved by open space that even a 1% decline in open space is significant and should at least result in substantial further analysis and completion of an of an EIS under City Environmental Quality Review (CEQR);
 18. The EAS open space analysis is flawed because a) many of the open spaces in the ½-mile study area are not in excellent condition, none are gardens that are open year round and nearly all are 100%-paved, and b) it ignores the significant non-residential population that visits the neighborhood daily -- more than 111,000 by subway alone⁴ -- and should include an analysis of the impact of the combined residential and non-residential population on open space in a ¼-mile study area; and,
 19. Because the Garden is a green open space and the only majority pervious open space in the ½ and ¼ mile study area, removing this pervious land cover and replacing it with a building and impermeable surfaces will generate stormwater runoff and runs counter to the city's own work as well as state and federal initiatives to reduce and mitigate stormwater runoff.

Land Use

20. The Proposed Project does not meet Urban Development Area Act requirements that the city-owned Garden site is a “slum or blighted” or “in deteriorated or deteriorating condition” and therefore should not be eligible to be designated as UDAA and UDDAP as defined under Article 16 of the State General Municipal Law;

³ See CEQR Technical Manual, Chapter 7, page 7-4 at <https://www1.nyc.gov/site/oec/environmental-quality-review/open-space-maps-manhattan.page> and view the map of the Underserved Neighborhood of NoHo at https://www1.nyc.gov/assets/oec/technical-manual/2014_ceqr_tm_open_space_map_noho.jpg.

⁴ Estimates based on MTA average rides compiled by the SoHo Broadway Initiative, at <http://sohobroadway.org/about-our-district/>.

21. The Development Team made the following design decisions that increase lot coverage, reduce the land available for public open space and fail to achieve the RFP's stated goal for the project to "to the greatest extent possible, re-create current features":
 - a. Voluntarily designating enormous floor area (12,885 sq. ft. or 14%) to community facility use -- including 11, 200 sq. ft. of office space for Habitat for Humanity (or any future office tenant) -- that does not generate a zoning bonus and as a result reduces the income generated per square foot on the ground floor, increases the lot coverage needed to subsidize affordable housing, and reduces land available for public open space;
 - b. Including inefficient lot coverage for the one-story portion of the building;
 - c. Incorporating a large "breezeway" that substantially reduces available space for income generation, instead of designing a much narrower access to the open space from Elizabeth Street, that also would be more consistent with neighborhood character and not create the management challenge of a large indoor publicly accessible space;
 - d. Choosing not to seek changes to the SLID requirements, such as i) modification of the requirement for the setback above 65 feet that currently reduces the number of units on the 7th floor, which would not have required a special permit and ii) and special permits or text changes to increase floor area and add additional stories;
 - e. Choosing an inefficient "T" shape for the full height portion of the building;

Quality of Life

22. Community members expressed concern about the loss of 70% of the current Garden site, its proposed replacement with a Shaded Open Space that would lack green space, make it nearly impossible to replicate the 200 free public programs held annually, and eliminate the Garden's current high concentration of trees and other flora that are essential to a healthy lifestyle, citing a recent article in the NY Times, *The Secret to Good Health May Be a Walk in the Park*, Dec. 3. 2018, which states, "[p]arks are the key to good public health and to the environmental health of cities...[and] research has shown that community green spaces can reduce violent crime; counter stress and social isolation, especially for older adults; improve concentration for children with attention deficit disorder; enhance relaxation; and promote self-esteem and resilience."
23. The Proposed Project only provides small studio apartments of one size (370 sq. ft.) for single occupancy seniors, excluding applications from couples, partners, seniors with caregivers or children and does not specify if it would permit pets, an important companionship role for seniors.
24. The Development Team stated that the rent from retail tenants would subsidize the affordable apartments, and therefore, they would seek tenants able to pay the highest market price and, as a result, the retail spaces may not offer amenities for the residents of the development such as groceries, affordable food options, toiletries, medical needs etc.

Transportation

25. Habitat for Humanity will be moving its main office from the Financial District to this residential neighborhood, taking up 11,200 sf of the building space on both the ground (1st) floor and the cellar;
 - a. Services will therefore be offered to a broader constituency than just on-site residential -- to "low and moderate-income New Yorkers across the city."

- b. Such services to the greater community will entail visits and activities from out of the neighborhood, and other projects that will generate both more pedestrian and vehicular traffic + mass transit (subway & bus) use, as well as truck traffic (deliveries)
26. On-site retail also will generate more transportation impacts, especially in terms of deliveries as well as pedestrian activity from users coming from outside the neighborhood.
27. Even if these extra trips (or some of them) meet the threshold for no further analysis in peak hours based on the Technical Manual, no analysis of their impact as it affects this particular small neighborhood context (with small streets and in the heart of a very active community) has been done nor has mitigation been explored for handling these changes and the needs they create (which would be done in an EIS). For example, as the EAS Full Form for the NYC City Environmental Quality Review (CEQR) states: "It should be noted that a lead agency may require further analysis of intersections of concern even when a project generates fewer than 50 vehicles in the peak hour."

Therefore be it resolved that:

1. Community Board 2 unequivocally denies this application as presented because it fails to properly meet the stated goals of the RFP;
2. CB 2 reiterates its longstanding position that Elizabeth Street Garden remain wholly intact;
3. CB 2 encourages the city to reconsider the Alternative Site at 388 Hudson Street because it could support four to five times more Senior AH and preserve ESG, but because 388 Hudson Street was promised for a park nearly 20 years ago, CB 2 supports switching 388 Hudson from park to affordable housing use *only if* the Garden is preserved *in its entirety*;
4. The EAS is insufficient and ignores many legitimate and significant environmental issues, and therefore CB 2 urges the City Planning Commission to vote to reopen the process and start anew with an EIS; and,
5. Even in light of everything in this resolution and the enormous public support to preserve Elizabeth Street Garden, should the city move forward, over the objection of CB 2, the proposal must be modified as follows so that it is fully responsive to the Request for Proposals:
 - a. Public open space of at least 65% of the lot, on the ground floor, forever open to the sky, designed with sufficient sunlight, green grass and trees to re-create features from the existing Garden;
 - b. A NYC Parks Department management agreement so that the public open space is mapped as parkland and managed and designed under Parks Department standards;
 - c. At least 30% one-bedroom apartments for the residential units;
 - d. Alternative plans that maximizes an environmentally friendly public garden space and reduces the office space footprint of Habitat for Humanity;
 - e. Modification to increase the maximum building height to no more than 100 feet in order to substantially increase the amount of public open space; and,
 - f. Modified design of the building façade to better reflect the SLID goal of retaining neighborhood character and its location within the Chinatown and Little Italy Historic District on the National Register of Historic Places.

Vote: Passed, with 30 Board members in favor; 7 Board members in opposition (T. Connor, J. Liff, E. Ma, R. Sanz, S. Sartiano, S. Smith, C. Sullivan); and 4 abstentions (A. Brenna, G. Silvera Seamans, A. Zeldin, R. Kessler).

Please advise us of any decision or action taken in response to this resolution.

Sincerely,



Carter Booth, Chair
Community Board #2, Manhattan



David Gruber, Chair
Chair, Elizabeth Street Garden Working Group
Community Board 2, Manhattan

TC/jt

c: Hon. Nydia Velasquez, Congresswoman
Hon. Jerrold Nadler, Congressman
Hon. Brian Kavanagh, State Senator
Hon. Brad Hoylman, State Senator
Hon. Yuh-Line Niou, Assembly Member
Hon. Deborah Glick, Assembly Member
Hon. Gale A. Brewer, Manhattan Borough President
Hon. Margaret Chin, City Council Member
Hon. Scott Stringer, City Comptroller
Hon. Letitia James, New York State Attorney General
Sylvia Li, Dept. of City Planning