

DETERMINATION AND FINDINGS

Determination and Findings by the New York State Urban Development Corporation, d/b/a Empire State Development Corporation, Pursuant to Eminent Domain Procedure Law Section 204 in Connection with the Columbia University Educational Mixed Use Development Land Use Improvement and Civic Project.

The Columbia University Educational Mixed Use Development Land Use Improvement and Civic Project (the “Project”) involves the acquisition, by condemnation or voluntary transfer, of certain property located within the Project Site (as described below) in the Manhattanville area of West Harlem for the development of a modern, open, integrated campus of some 17 acres for Columbia University (“Columbia”) which would consist of a total of approximately 6.8 million gross square feet (“GSF”) of new, state-of-the-art facilities housed in up to 16 new buildings and in an adaptively re-used existing building. Among other education related uses, these buildings would be used by Columbia for: teaching facilities; academic research probing the causes of diseases such as Parkinson’s, autism, dementia, schizophrenia and Alzheimer’s; graduate student housing, faculty housing and housing for other employees; and active ground floor uses serving the local community and Columbia. The Project will create over two acres of much-needed publicly accessible, open space. This park-like and landscaped open space, like the Project site, will be without gates or barriers so as to invite pedestrian travel to and through the public areas of the site. The Project will also include an open-air market zone along 12th Avenue and widened, well-lit, treelined sidewalks. Columbia is a non-profit corporation, the oldest university in this State, one of the premier educational institutions in this nation, the seventh largest private employer in New York City (employing some 14,000 people, two-thirds of whom live in New York City), and, upon completion of the Project, Columbia is expected to employ an additional approximately 6,000 people at the Project site in stable, permanent jobs. During the construction build-out, some 14,000 construction jobs will also be created by the Project.

Nearly 2 million GSF of the Project total will be developed as a continuous, multi-level, Below-Grade Facility (“Below-Grade Facility”) of up to some 80 feet in depth that would be used for activities that support the educational, academic research, housing, recreational and teaching programs of Columbia. The Below-Grade Facility would extend in part below West 130th, West 131st and West 132nd Streets, between Broadway and 12th Avenue and, as such, would connect most of the buildings. The build-out of the Project is anticipated to occur in two phases over an approximately 25-year period. The first phase would entail developing all of the Project site, except for Block 1999.

The Project site is wholly within New York County and generally extends from the southerly side of West 125th Street north along the westerly side of 12th Avenue to the northerly side of West 133rd Street, then along the northerly side of West 133rd Street to the westerly side of Broadway, then northerly along the westerly side of Broadway to the northerly side of West 134th Street, then along the northerly side of West 134th Street,

then southerly along the easterly border of Lot 7 and through Lot 9 on Block 1987 to the easterly side of Old Broadway, then southerly along the easterly side of Old Broadway to the southerly side of West 131st Street, then westerly along the southerly side of West 131st Street to the easterly side of Broadway, then southerly along the easterly side of Broadway to the south side of West 125th Street and lastly northwesterly along the southerly side of West 125th Street to 12th Avenue. A map of the Project site is attached hereto and made a part hereof as Exhibit A.

The Project qualifies as both a Land Use Improvement Project and separately and independently as a Civic Project pursuant to the New York State Urban Development Corporation Act (Chapter 174 of the Laws of 1968, as amended; the “UDC Act”). As part of the educational mission of Columbia, the Project will foster important scientific research and knowledge in such areas as neurological disorders and systems biology to benefit the public. ESDC is providing no financing for the Project. Exclusive of financing costs, the estimated acquisition and construction cost for the Project is \$6.28 billion and the Project shall be funded by Columbia. Adequate provision has been or will be made for all Project related costs of acquisition, construction, operation, maintenance and upkeep.

The New York State Urban Development Corporation, d/b/a Empire State Development Corporation (“ESDC”) adopted a General Project Plan for the Project on July 17, 2008. On September 2, 2008, as continued on September 4, 2008, ESDC held a duly noticed public hearing in accordance with the provisions of Article 2 of the New York State Eminent Domain Procedure Law (“EDPL”) and Sections 6 and 16 of the UDC Act in order, among other things, to inform the public, to solicit comments on the Project from the public, and to review the public use, benefit or purpose of the proposed Project and general effect of the proposed Project on the environment and residents of the locality. Comments were invited at the hearing on the General Project Plan, the proposed condemnation, the proposed property acquisitions and the proposed property transfers to Columbia pursuant to the General Project Plan. Written or e-mailed comments were also invited until 5:30 p.m. on October 10, 2008.

The public hearing extended over two days and some 13 hours, until all persons who wished to speak had spoken for as long as they chose to speak. The public was provided with information concerning the public use, benefit and purpose to be served by the proposed Project, the Project location and the reasons for the selection of that location and the general effect of the proposed Project on the environment and residents of the locality. This information was provided by the hearing officer, and by representatives of ESDC and Columbia. Copies of the General Project Plan, the Final Environmental Impact Statement (“FEIS”, together with the Draft Environmental Impact Statement, the “EIS”) and two separate neighborhood condition studies of the Project site were made available at the public hearing. One such study was prepared by AKRF, Inc. which used the internationally known engineering firm of Thornton Tomasetti, Inc. to inspect and evaluate the physical conditions of the properties. The other study was performed by the internationally known environmental and engineering firm of Earth Tech, Inc. which likewise independently inspected and evaluated the physical conditions of the properties.

Both studies found the Project site to be substandard or insanitary. The hearing provided an opportunity for the public to comment on the proposed Project, the General Project Plan, the proposed property transfers and the public use, benefits and purposes to be served by the Project. The record of the hearing remained open for any additional written comments until October 10, 2008.

During the hearing, ESDC stated that during the first ten-year phase of the Project, it would assist in acquiring certain needed properties and property interests including, among others, subsurface interests underlying and adjacent to City streets within the Project site and below-grade property interests needed for tiebacks and supports and which are also needed for the construction, maintenance and development of the Below Grade Facility beneath West 130th, West 131st, and West 132nd Streets.

During the first ten-year phase, the following properties would also be subject to acquisition by ESDC for the Project: Block 1986, Lots 30 and 65; Block 1987, Lots 1 and 7 and the western portion of Lot 9; Block 1995, Lots 31 and 35; Block 1996, Lots 14, 15, 16, 18, 20, 21, 23, 29, 34, 36, 50, 56, and 61; Block 1997, Lots 1, 6, 9, 14, 17, 18, 21, 27, 29, 30, 33, 34, 40, 44, 47, 48, 49, 52, 55, 56, 61 and 64; Block 1998, Lots 1, 3, 6, 10, 13, 16, 24, 26, 29, 38, 49, 57, and 61.

In addition, subsurface interests in below grade portions of West 125th, West 129th, West 130th, West 131st and West 132nd Streets, certain adjacent below-grade areas of Broadway, 12th Avenue and possibly certain below-grade areas of Old Broadway may also be acquired. The surface of the streets will remain public streets typically from grade to a depth of some 8 to 10 feet below grade thereby assuring continuance of the present street grid. During this first ten-year phase of the Project, ESDC would not acquire through eminent domain: Block 1997, Lot 6, which is owned by the City and leased to an affiliate of the Metropolitan Transit Authority (“MTA”); Block 1997, Lots 29 and 48, so long as they continue to be used for religious purposes; Block 1998, Lot 38, which is owned by the City and operated by its Department of Housing Preservation and Development; and Block 1998, Lot 49, as long as it continues to be used for public utility purposes; or any part of Block 1999. Acquisition of City-owned lots is expected to occur pursuant to Section 14 of the UDC Act rather than through condemnation, and could occur under Section 14 at any time after those lots become vacant.

ESDC would only consider the acquisition of City-owned parcels leased by the MTA or its affiliates with the agreement of the MTA. ESDC will not acquire City-owned parcels used by the MTA or its affiliates while they are occupied by the MTA or its affiliates absent the agreement of the MTA.

Of the seven residential buildings on the Project site, six are located on Broadway between West 132nd and West 133rd Streets. The seventh is located on the south side of West 132nd Street. ESDC will not exercise its eminent domain power to acquire these seven buildings at any time while they remain occupied by residential occupants. Nor will ESDC exercise this power to acquire any other legal residential unit on the Project site prior to 2018.

Columbia and ESDC will provide relocation assistance to all Project residents and businesses as set forth in the General Project Plan.

Upon ESDC's acquisition of any property interest in the Project site, the payment by Columbia of all of ESDC's costs and expenses of acquiring the same, the payment of all fees, claims and expenses incurred or accrued by ESDC and ESDC's acquiring full possession thereof, ESDC would convey and release such property and property interests, without further consideration, to Columbia. All property now or hereafter owned by Columbia within the Project site will be subject to a Declaration of Covenants and Restrictions that will secure Columbia's compliance with the requirements of the General Project Plan, as modified and affirmed by ESDC's board on December 18, 2008 (the "GPP"), as well as certain obligations incurred by Columbia in connection with the rezoning of the area.

Compliance with the City's Uniform Land Use Review Procedure ("ULURP"), to the extent it might be deemed applicable to the Project, and with the City Map with respect to subsurface portions of City Streets which will be incorporated into the Below Grade Facility, would result in a multiplicity of reviews, delay implementation of the Project and its public benefits and needlessly duplicate the ULURP process that has already been conducted. The proposed Project already has received substantial public disclosure and involvement through the ULURP and State Environmental Quality Review Act/City Environmental Quality Review processes conducted for the recent rezoning and by the additional public review provided by ESDC's hearing. Given the opportunity so afforded the public to participate in the rezoning and environmental review under ULURP and the further opportunities afforded by ESDC, no purpose would be served by the delay associated with compliance with ULURP and related City requirements and such compliance would be impracticable and infeasible. Transfers of City owed property that might be subject to compliance with ULURP will therefore comply only with the UDC Act and GPP. Also, to the extent that the use of the below grade portion of City streets for Project purposes is inconsistent with the City Map, the Project will be governed by the GPP and not that Map.

Construction of the Project and the plans and specifications will be subject to and comply with the applicable provisions of the New York City Building Code, including without limitation, its fire, earthquake, sewer, street construction, health safety requirements and permitting requirements. In addition, Columbia's design team includes a Leadership in Energy and Environmental Design ("LEED") consultant to achieve at least the requisite LEED v. 2.2 Silver Certification, as set forth in the GPP, and will engage, at Columbia's own cost, an independent consultant acceptable to ESDC and the City to monitor environmental compliance on behalf of ESDC and the City.

All testimony and written comments received at the hearing and additional comments received during the comment period have been reviewed, made a part of the record, and afforded full consideration. Solely as an accommodation, ESDC has also duly considered late comments received during October, 2008 and reproduced the same as if they were duly part of the record. ESDC has also considered and relied upon the

facts and analyses set forth in the EIS and the contents of the previously mentioned neighborhood condition studies in reaching its determination and findings.

I. The Public Use, Benefit, and Purpose To Be Served by the Project [EDPL § 204(B)(1)].

The Project will provide the following public uses, benefits and purposes:

- 1) Address the State's and City's need for educational, community, recreational, cultural and other civic facilities. One of the most important responsibilities of State government is to provide for the education of its citizens - a responsibility that includes fostering the growth and development of independent colleges and universities to improve student learning and achievement.
- 2) Maintain the status of the City and the State as a global center for higher education and academic research by providing new facilities with large, open floor plates and shared infrastructure, comparable to those now being constructed by Columbia's peer institutions.
- 3) Eliminate the approximately 60% of the lots that have substandard, unsafe, unsanitary or deteriorated conditions thereon which exhibit critical and poor physical conditions, a vacancy rate of 25% or more, and a utilization rate of approximately 60% or less even measured against the lower density zoning that existed prior to the December, 2007 rezoning. Approximately 80% of the current buildings on the Project Site were built more than 50 years ago and some 16% of the buildings more than a century ago. For generations extending prior to World War II, the Project site has been largely used by small and diverse owners for automotive sales, repairs, storage warehouse and light industrial/transportation uses and also has continued to suffer from long-term poor maintenance, lack of development and disinvestment. The current bleak conditions are and have been inhibiting growth and preventing the site's integration into the surrounding community. The implementation of the Project would remove these blighted conditions.
- 4) Ensure consistent, orderly, comprehensive and controlled growth pursuant to the Project throughout the entire 17 acres and thereby generate the numerous community and civic benefits set forth in the GPP that merely complying with the recent rezoning will not accomplish. The proximity of the Project site to other Columbia facilities, particularly its Morningside Heights Campus and Medical Center Campus, will foster interdisciplinary discourse and collaboration among university faculty and students and keep the City as a vibrant center for research, knowledge creation and education.

- 5) Accommodate the Below-Grade Facility for educational, academic research, recreation and supporting uses and infrastructure. The Below Grade Facility will among other things: permit the construction and use of a centralized and efficient energy plant; provide parking and receiving facilities thereby promoting the efficient distribution of goods and food services and helping to minimize street congestion; reduce above ground density thereby allowing some two acres of ground level space to be devoted to publicly accessible open space and allowing the new buildings to be on a scale with the surrounding community; permit the streets to remain open at grade level, thereby allowing the lower floors of the buildings to connect to a lively, street level commercial corridor serving the local community and Columbia, and contributing to a pedestrian-friendly and vibrant ground level experience for pedestrians.
- 6) Provide open areas that will be gateless, airy and publicly accessible, albeit privately-owned and maintained. The current bleak, essentially treeless, deteriorated, foreboding appearance of the Project site, and automobiles regularly parked on and blocking sidewalks, would be replaced with a site containing approximately 94,000 square feet of accessible open space and maintained as such in perpetuity that will be punctuated by trees, open vistas, paths, landscaping and street furniture and an additional well-lit 28,000 square feet of space of widened sidewalks that will invite east-west pedestrian traffic.
- 7) Generate 6,000 new Columbia jobs and 14,000 construction jobs and also generate billions of dollars in personal income for New Yorkers. During the implementation of the Project, the present value of tax revenue derived from construction expenditures and total personal income during this period is estimated to total \$122 million for the State and \$87 million for the City. By 2033, the active ground floor retail space uses serving the community and Columbia should alone generate almost double the City real estate taxes produced by the Project site in 2004 - 2005.
- 8) Make available to the community a package of mitigation measures and amenities including: upgrading the escalators at the 125th Street IRT subway station; a shuttle bus service for the elderly and disabled; a 24-year commitment, escalating up from \$500,000 per annum, towards the West Harlem Piers Park; viaduct lighting improvements, maintenance and electricity for lighting of the Riverside viaduct at the intersection of West 125th Street and 12th Avenue through 2033; and a host of other items set forth in the GPP. In opening its facilities, Columbia will make its libraries, computing facilities and other academic support facilities and services available to students from the new Public Middle and High School For Math, Science and Engineering for which Columbia is supplying the land rent-free for the next 49 years. Its proposed new swimming facilities will be available for the physically disabled and a

local swim team and will also offer a four-hour “family session” to local residents on Sunday afternoons, year round.

II. Project Location and Reasons for Selection of that Location [EDPL § 204(B) (2)].

The Project location is set forth above. With 17 contiguous acres, the Project site will accommodate Columbia’s historic and long-term contemplated growth and its need for flexible, state-of-the art educational facilities with sufficiently large floor plates, infrastructure below-grade, broad sidewalks, and open spaces that are essential to the creation and success of an urban campus integrated into the fabric of the local community. Its proximity to other Columbia facilities, particularly its Morningside Heights and Medical Center campus and Columbia’s 100-year presence in the Morningside Heights Campus will promote and foster inter-disciplinary discourse, the expansion of knowledge and collaboration among educators and students. Independently, the Project site’s current underutilization, substandard, deteriorated and unsanitary condition warrant its redevelopment pursuant to a cohesive, orderly and comprehensive plan that will benefit the local community, the City and State.

III. General Effect of the Project on the Environment [EDPL § 204(B)(3)]

The current aging jumble of low-density buildings, their physical condition and out-moded industrial/transportation character of the Project site, as shown in the two previously mentioned neighborhood condition studies and as evidenced by the numerous photographs contained therein, would be eliminated by the implementation of Project. The Project site would be transformed into an area characterized by open space, open vistas and visually cohesive, modern/iconic buildings and would benefit from significant, privately funded economic investment extending over the next several decades. Despite notable and sizeable redevelopment that has occurred around the Project site, the Project site itself has essentially remained stagnant for generations. The current conditions at the Project site would be dramatically improved by new buildings, new publicly accessible open space, new ground level retail opportunities, the creation of 6,000 new Columbia jobs and the knitting of the Project site into the activity of the surrounding neighborhoods of West Harlem.

The environmental impacts of the Project were analyzed and set forth in exhaustive detail in the EIS. The EIS discloses that the Project would clearly create inviting visual corridors towards the waterfront, improve the streetscape, improve the pedestrian experience on streets and create substantial publicly accessible open space on a site utterly lacking the same. The Project site including parcels on the east of Broadway would introduce new residential and commercial uses thereby enlivening the nearby community.

IV. General Effect of the Proposed Acquisitions on the Residents of the Locality

[EDPL Section 204(B)(3)].

- 1) As set forth in the FEIS, the Project would affect local residents through the direct displacement of those who currently live on the Project site and the potential indirect displacement of those living in the vicinity of the Project site. Columbia would provide new replacement housing in the vicinity of the Project site for those residents displaced by the Project. Indirect residential displacement would be mitigated in part through a range of Columbia-funded affordable housing initiatives. Construction of the Project would also affect local residents in terms of air quality, traffic and noise. Columbia will implement construction emission, noise, and traffic reduction, including the use of cleaner burning fuels and electric-grid powered equipment. A detailed discussion of the impact of the Project on the environment and local residents, including those impacts that cannot be fully mitigated, is set forth in the FEIS.
- 2) As previously mentioned, ESDC will not acquire by eminent domain any of the seven residential buildings on the Project site so long as they may be occupied by residential tenants and will not use this power to acquire possession of any other legal residential unit on the Project site prior to 2018. Among other things, Columbia would cause the construction of new housing to replace 75 residential units that will be required for the Project plus a minimum of 10% additional housing units. Relocation assistance would be provided to all residential households on the Project site including, without limitation, their relocation to decent, safe and sanitary dwellings as well as relocation payments and referrals to alternate housing, all of which would be paid for by Columbia. The approximately 85 known private businesses within the Project site would receive relocation assistance for the cost of moving, assistance on finding available commercial space and the other assistance described in the GPP.
- 3) In addition, the Project would provide for:
 - a) Upgrading the escalators at the 125th Street subway station on Broadway;
 - b) Providing \$500,000 p.a. (escalating at 3% annually) for the West Harlem Piers Park for 24 years;
 - c) \$76 million payable over 12 years to fund community benefits;
 - d) \$20 million towards affordable housing to address the impact of the Project;

- e) \$20 million to the Harlem Community Development Corporation which serves the greater Harlem community, payable over a period of 25 years;
- f) Shuttle bus service for the elderly and disabled through 2033, but such service may be discontinued if and when the 125th Street IRT station at Broadway becomes ADA accessible;
- g) \$500,000 to the I.S. 195 playground which is just north of the Project site; and
- h) Numerous other contributions and civic programs similarly funded by Columbia and detailed in the GPP.

V. Other Relevant Factors [EDPL § 204(B)(4)].

At the public hearing, oral and written comments were received from the public, and it was stated that written comments would be accepted until the close of business on October 10, 2008.

Numerous comments were received in support of the Project and the many public uses, benefits or purposes to be served thereby. For those opposing the Project, certain adverse comments were made, such as: (a) the purported absence of a need for condemnation; (b) that commercial scientific enterprises would purportedly dominate the use of the Project site; (c) that the Project does not purportedly independently and separately qualify as civic project under the UDC Act; (d) that the two ESDC neighborhood condition studies and the two professional engineering reports, together with the extensive photographic evidence contained in each of those studies, do not allegedly substantiate blight; (e) that any pending FOIL requests or FOIL litigation should preclude any decision by ESDC with respect to the Project; (f) that the consultants engaged by ESDC to prepare the neighborhood condition studies were purportedly not independent; (g) that the buildings acquired by Columbia were allegedly in good condition prior to their acquisition and that after their acquisition Columbia purportedly failed to maintain them; and (h) that there has been allegedly inadequate consideration given to the consequences of an earthquake or flood with respect to the Project.

All comments have been given careful, extensive and due consideration by ESDC.

DETERMINATION

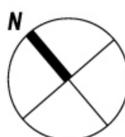
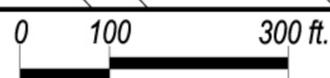
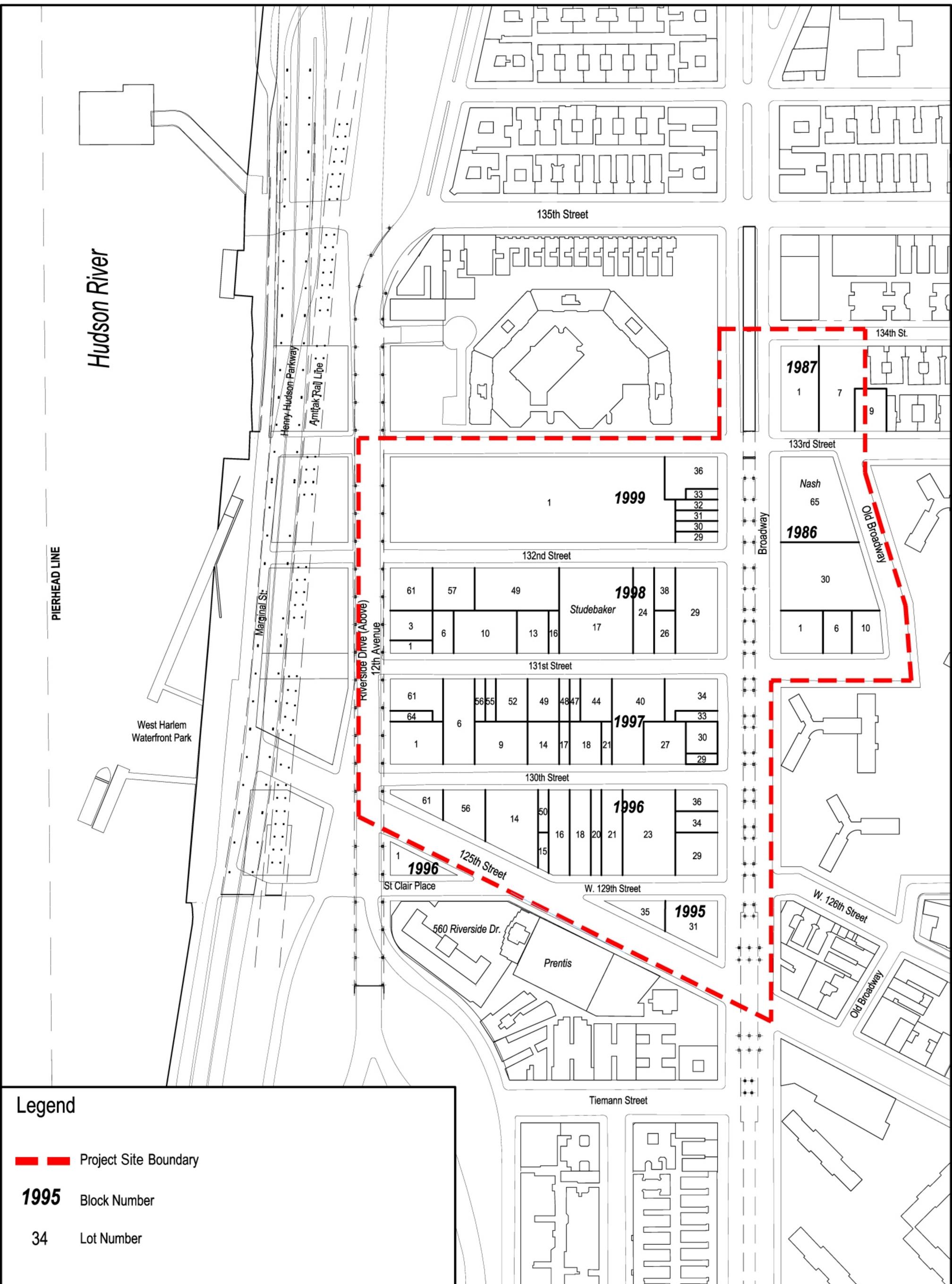
Based on due consideration of the record and the foregoing findings, it is determined that the ESDC should exercise its power of condemnation to acquire the above-described property in order to promote and permit the purposes of the Project to be achieved.

Copies of this Determination and Findings by the ESDC are available and will be forwarded without cost and upon request, by writing to:

Empire State Development Corporation
633 Third Avenue
New York, New York 10017
Attention: Ms. Regina Stephens

ATTENTION: ANY PERSON WHO WISHES TO SEEK JUDICIAL REVIEW OF THIS DETERMINATION AND FINDINGS, OR WHO CLAIMS TO BE AGGRIEVED BY SUCH DETERMINATION AND FINDINGS AND WISHES TO CHALLENGE SAME, MUST DO SO, IF AT ALL, (1) BY DULY COMMENCING A LEGAL PROCEEDING IN THE APPELLATE DIVISION, FIRST DEPARTMENT, 27 MADISON AVENUE, NEW YORK, NEW YORK, NO LATER THAN JANUARY 22, 2009, OTHERWISE ANY SUCH CHALLENGE OR JUDICIAL REVIEW MAY BE TIME BARRED, AND (2) BY DULY SERVING A DEMAND UPON THE ESDC TO FILE THE RECORD UNDERLYING THIS DETERMINATION AND FINDINGS. THE APPELLATE DIVISION MAY CONSIDER THE PUBLIC USE, BENEFIT OR PURPOSE TO BE SERVED BY THE PROPOSED ACQUISITION AND OTHER MATTERS SET FORTH IN NEW YORK EMINENT DOMAIN PROCEDURE LAW SECTION 207. UNDER SECTIONS 207 AND 208 OF THE EMINENT DOMAIN PROCEDURE LAW, THE EXCLUSIVE VENUE FOR ANY CHALLENGE TO THIS DETERMINATION AND FINDINGS IS THE ABOVE-DESCRIBED APPELLATE DIVISION. ANYONE WISHING TO CHALLENGE THIS DETERMINATION AND FINDINGS IS ADVISED TO CONSULT AN ATTORNEY PROMPTLY.

Exhibit A. Project Site Map



Manhattanville in West Harlem Land Use Improvement and Civic Project

December 2008