



**First Avenue Properties Rezoning  
Testimony before the City Planning Commission  
December 2007**

**The Opportunity for New York**

The Municipal Art Society believes that the redevelopment of the former Con Ed site on the East Side of Manhattan is one of the most important development opportunities in New York City today.

Since 2000, the MAS has focused on two critical public benefits that we believe redevelopment of this site must bring: the creation of new, genuinely public open space in a neighborhood that desperately needs it and access to the East River for a district that has been long blocked off from its waterfront.

We believe that the “stars are aligned” to achieve these goals. Not only is the former Con Ed site about to be redeveloped, but the midtown section of the FDR needs to be rebuilt and the UN would like to expand on to Robert Moses Playground.

If planned together, these projects could be designed to create a wonderful new waterfront park that connects East Midtown to the River. With this in mind, the Society convened a charrette in June of this year with Manhattan Community Board Six, Council Member Garodnick and other elected officials to explore what a potential waterfront park could look like. The results of the charrette can be viewed online at [mas.org/midtowneastwaterfront](http://mas.org/midtowneastwaterfront).

**However, in order to achieve a result like this, the City and the State must begin to coordinate the planning of projects in the area.** For example, in order to build a park over the FDR, the State Department of Transportation has stated that the highway must be moved at least 30 ft. to the west in order to allow the exit ramp to be moved. This would require asking the developer of the former Con Ed site for an easement in order for the highway to be realigned and a deck to be constructed. **East River Realty has indicated that they are prepared to facilitate this, but if this request is not made soon the opportunity to deck over the highway may be lost permanently.**

While the Society believes that the issues relating solely to the former Con Ed site are critical, we believe that the overall opportunity to create new open space and access to the

waterfront are paramount and that the City and State must begin planning the projects in the area together to ensure that we maximize the public benefit from redeveloping this site.

### **Manhattan Community Board Six's 197-a Plan**

The Society believes that the 197-A and the 197-c plans submitted by Manhattan Community Board Six are superb documents that reflect longstanding planning principles and a deep knowledge and understanding of local issues. We believe that the East River Realty Plan would be significantly improved if it is changed to more closely reflect the CB6 planning documents, especially with regard to the extension of the street grid, the creation of waterfront open space, the overall density and other aspects.

### **The East River Realty Site Plan**

#### ***Public Streets***

During World War II, East 39<sup>th</sup> and 40<sup>th</sup> Streets between 1<sup>st</sup> Avenue and the FDR were demapped for security reasons. As the site is rezoned for residential and commercial use, the Society believes these streets should be returned to public control, either by being “remapped” as public streets or by the developer granting a public easement through his property on the site of the original street beds. The resulting public-controlled street beds could be accessible to both vehicles and pedestrians, or depending on input from the community and the developer, for pedestrian access only.

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

#### ***Open Space***

Of all the benefits that redevelopment of this site offers, the creation of genuinely public open space in a neighborhood that has one of the lowest ratios of open space per capita in the city is clearly the most critical. As stated earlier, we believe that extending the deck proposed by East River Realty over the FDR Drive to create a genuine public waterfront park that would allow pedestrians to descend to the water and any amenities on the water's edge (such as a water-taxi landing) is a critical, once-in-a-lifetime opportunity that New York must seize. However, the responsibility to create such a park would lie principally with the City and State, and not with ERR.

Notwithstanding, the Society is gratified at ERR's efforts to develop a site plan that would be fully compatible with the creation of a deck over the FDR. Specifically, the

Society was encouraged by the proposed elevation of the proposed site plan and the apparent willingness of ERR to provide an easement that would allow the highway to be aligned to permit decking over.

The Society was also gratified by the way the proposed open space had been designed with a clear East-West orientation that would pull pedestrians towards the waterfront, with a well-designed pavilion functioning as a restaurant that would draw pedestrians through the site. Overall, we were impressed by the high quality of the design of the open space.

**However, as currently proposed, the Society does not believe that the design will function as a genuinely public open space.** We urge that the following changes be made to address this:

a) Without access to the waterfront, the proposed open space may be insufficiently appealing by itself to draw the general public into it. As stated earlier, the creation of a waterfront park will act as a powerful magnet that will substantially raise the chances that this open space will be a true public amenity.

b) The open space is currently proposed to be bordered by “driveways” that would extend 39<sup>th</sup> and 40<sup>th</sup> Streets. As stated earlier, the Society believes these should be publicly-controlled to enhance the public quality of the open space and guarantee public access to any open space created adjacent to the waterfront in the future.

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

d) The open space is currently proposed to be closed at midnight. We believe the space should be open 24 hours.

e) The Commission should explore the proposed pricing and size of the restaurant planned inside the pavilion to ensure it will attract a diverse range of patrons. While we believe this would be an excellent amenity for the site, it is critical that the expense of patronizing the restaurant not create an “exclusive” atmosphere.

### ***Skyline Impact and Architecture***

Overall, the MAS is impressed by the obvious commitment of East River Realty to high quality architecture, and from the street perspective, the glass facades of the proposed buildings will clearly be attractive and engaging. However, the Society is concerned over the impact of the proposed buildings on the skyline and on the UN Secretariat,

particularly when viewed from the East and South West. The building heights proposed by East River Realty – up to 680 ft. - could not be described as contextual, in a neighborhood where most residential towers are in the region of 40 stories and the UN stands at 515 ft.

More importantly, the effect of a large number of buildings clustered at similar heights would create a deadening effect on the skyline, and an overbearing presence on the UN Secretariat building, the Tudor City Greens, and other structures in the neighborhood. While the Society does not believe that a height limit for structures on the site is necessarily appropriate, a plan containing buildings with a significantly greater variation of height – such as a taller building coupled with a family of substantially lower-scaled buildings - might create a more dramatic skyline with a smaller impact on the buildings that exist in the area.

While the renderings the Society studied were clearly not intended to be the final design of the project, the architectural style proposed by East River Realty seemed engaging at close range but not as interesting from a distance. As the design evolves, the Society hopes East River Realty will create a family of buildings with a bolder skyline presence, comparable to Rockefeller Center, the Bloomberg Building and other structures whose presence in the New York skyline is notable.

### ***Density***

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

### ***Commercial Office Space***

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

### ***Streetwall***

Currently, East River Realty proposes that the streetwall along 38<sup>th</sup> and 41<sup>st</sup> Streets from 1<sup>st</sup> Avenue to the FDR service road have a glass façade but not contain any active use behind the façade that would generate or encourage pedestrian activity. While we agree that the location of this area does not lend itself to thriving retail, the Society nonetheless believes that the Commission should require active uses along this streetwall, such as service-oriented retail (e.g. dry-cleaners) or community facility uses. Active uses would ensure that the streets do not become deadened or made unsafe by an absence of activity and little or no visual interest for pedestrians.

### ***Phasing***

The Society believes that the phasing of the project should ensure that its public benefits – such as the provision of open space, a school and affordable housing – should come as early as possible in the construction of the project.

### ***Parking***

The Society is a strong supporter of the goals set out in PlaNYC, especially with regards to curbing congestion and reducing private automobile use in Manhattan. The benefits of accomplishing this goal would include improved air quality, transit journey times, and an overall pedestrian quality of the neighborhood that would contribute to a vastly enhanced environment. The Society therefore urges the Commission to review whether the amount of parking proposed by East River Realty is consistent with the goals set out in PlaNYC.

Further, the construction of the 2<sup>nd</sup> Avenue subway, the implementation of Bus Rapid Transit along 1<sup>st</sup> Avenue and the potential creation of a transportation corridor along 42<sup>nd</sup> Street would all contribute substantially towards making development on this site transit-oriented, on condition that the parking provided – particularly for the public - is minimized.

### **Conclusion**

Throughout this process, the project that has been proposed by East River Realty has been significantly improved through dialogue with the CB6 and local elected officials that resulted in substantial positive changes to the site plan and the addition of a school and affordable housing to the program. We urge the Commission to continue to foster this dialogue and that the project not be approved until it more closely reflects the goals and aspirations of the local community and their elected representatives.