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THE ASSEMBLY
STATE OF NEW YORK
ALBANY

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Real Property Taxation

November 22, 2006

Honorable Sheldon Silver
Speaker
New York State Assembly
250 Broadway, Suite 2307
New York, NY 10007

Dear Speaker Silver,

The Atlantic Yard Redevelopment Project, while it offers benefits to Brooklyn, has serious shortcomings in regard to 1) overwhelming density and override of New York City land use laws; 2) unmitigable environmental impacts associated with the extreme density; and 3) guaranteed affordable housing.

Community Board Six in Brooklyn, along with a wide variety of both citywide and local civic and not-for-profit organizations, have stated that the project as currently conceived should not be approved. We are writing to request substantial modifications to the Project and a delay in approval until those modifications are achieved.

Extreme Density

The gravest concern pertaining to community impact and the democratic process is the project's density. The current plan is on a scale that would double the legally-zoned density of this area and create an island of population at this Brooklyn hub eight times as dense as that of Manhattan. The density will produce extraordinary environmental and infrastructure burdens and costs. The EIS acknowledges an additional 20,000 vehicle trips a day and the inadequacy of current subway or bus facilities to absorb additional riders.

A) No Compelling Rationale for Override of New York City Land Use Law:

The first question regarding density has to do with the override mechanisms that enable it to happen. The affected area currently has zoning designations (C6/R7) that are high-density and allow development of up to 18- to 20-story buildings. However, using the power of the Empire State Development Corporation, the Atlantic Yards Redevelopment Project would permit development on a colossal scale (1) by overriding the New York City Zoning Resolution – designed to regulate density and protect infrastructure and public health - and (2) by bypassing the New York City Uniform Land Use Review

Procedure – which gives the local community an important voice in major land use decisions.

B) Financial Disclosure and Evaluation in Relation to Compliance with the Zoning Resolution

Essential to any decision permitting the project to go forward is disclosure of the project's finances. Implicit in the case for permitting development of this scale and density is the need for reasonable return on investment. However, there has been, to date, no public disclosure of the project's finances, including detailed cost analysis, anticipated public subsidies, and expected financial return. If the developer can make a reasonable profit within the density allowable under the New York City Zoning Resolution, there is no compelling rationale to override local laws, and thus allow extreme population density and incur unmitigable environmental costs.

Following financial disclosure, an evaluation of the relationship between the developer's return on investment and compliance with the Zoning Resolution needs to be conducted. Final approval should be geared to limiting the project to a density as close to the current legally allowable limits of the Zoning Resolution as possible.

C) Environmental Impacts and a Meaningful Transportation Plan: Unless it is significantly downsized, the Atlantic Yard Redevelopment Project will have intolerable adverse impacts on infrastructure, environment, entailing long-term public costs that we believe have not been adequately examined. There is no meaningful plan to mitigate these impacts. A genuine auto use and mass transit mitigation plan needs to be incorporated into the plan before approval.

Affordable Housing and Displacement

Although the project promises 2250 units of affordable housing, there is nothing binding to assure its provision. Since there is an undeniable public need for lower- and middle-income housing in the City, and if affordable housing is a justification for State and City assistance to this project, its provision should be spelled out and guaranteed by contractual agreement.

Moreover, only 550 or 25% of the projected affordable housing units are currently scheduled to be built in the first phase (Stage One) of construction. We call for a significant increase in the percentage of affordable units in the first stage of the Project. No fewer than half of the units should be developed in Stage One, and this provision should be included in the affordable housing contractual agreement.

Current affordable housing plans do not allow for households with incomes of less than \$21,000 per year. The plan should allow for such households. In addition, relocation contracts with tenants being displaced will expire before project completion (due to delays), and would have only allowed three years guaranteed placements in the

FCRC development anyway. These contracts need to be renewed and benefits enhanced prior to eminent domain proceedings.

Assembly Bill 11431

Recognizing a consensus that the project was too big, several local legislators introduced Assembly Bill 11431 in the past New York State legislative session to compel a reduction in the size of the project by 34%, or 3 million square feet. Subsequently the developer modified the project's size, so the bill would now compel a reduction by 27%, or 2.1 million square feet. The bill preserves the affordable housing component of the project and provides due process enhancements to the rights of persons and businesses subject to displacement.

Modification of the Project and Delay

The P.A.C.B. should return the Project Proposal to the ESDC for modifications along the lines we have indicated. This will also allow the Spitzer Administration to address the gross defects in the Environmental Impact Statement or conduct other reviews. A delay of several months while concerns are incorporated into the Project will cause no harm to Atlantic Yards and major long-term benefit to the community.

Summary

In sum, we cannot support the Atlantic Yards Redevelopment Project unless it is substantially downsized. A11431 serves as a path for that solution. Such downsizing is the most feasible means of mitigating the most serious adverse environmental effects of the project. In addition, the project's finances must be disclosed. Finally, there must be contractual guarantee of affordable housing units in the project and inclusion of a high percentage of the affordable housing units in the earliest stage of construction.

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