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February 15, 2017

Richard Eggers, Chair
Community Board Six Manhattan
866 United Nations Plaza, Suite 326A
New York, NY 10017

Sandro Sherrod
Chair, Land Use & Waterfront Committee
Community Board Six Manhattan
866 United Nations Plaza, Suite 326A
New York, NY 10017

Re: Impacts on Greenacre Park, Greater East Midtown Rezoning
(Rezoning)

Dear Mr. Eggers and Mr. Sherrod:

This firm represents the Greenacre Foundation with regard to the Rezoning and its likely impacts on Greenacre Park. I am writing to outline these impacts and possible solutions. The Foundation asks the Community Board to support its effort to protect the Park by specifically incorporating three key recommendations into the board's resolution on the rezoning.

1. The Draft Environmental Impact Statement ("DEIS") must recognize the critical importance the Park plays in serving the open space needs of the community.

Attached as Appendix A to this letter is the Foundation's 2017 report on the Park, which describes its history and current role in serving the open space needs of East Midtown. The City sets a standard of .5 acres of passive open space per 1,000 residents and .15 acres per 1,000 nonresidents (i.e., workers, students). The DEIS study area has approximately .062 acres per 1,000 residents and nonresidents—a dramatic shortfall. Moreover, all open space is not equal. Many of the public- and privately-owned public spaces are sparsely vegetated and lack light and air.¹ Greenacre Park, with its lush vegetation and adequate sunshine plays a vital role in addressing the open space shortfall. This role is heightened because of its location squarely between the business district to the west and residential neighborhoods to the east. The DEIS

¹ Notably, the Park is not a POPS as defined by the Zoning Resolution. It was not created in exchange for any density bonus. Abby Rockefeller Mauze created the Park in 1971 through her philanthropy and it is owned and operated by an IRS-certified charity.

should recognize the special role that the Park plays in East Midtown and judge shadow impacts accordingly.²

2. The DEIS must accurately state the potential impacts on the Park.

The DEIS identifies 30 development sites, assumes certain maximum new building heights and calculates shadow impacts on public open spaces and historic buildings. As it relates to the Park, the analysis is deficient in two ways. First, the DEIS incorrectly concludes that increasing shadows on the Park by up to one hour and 41 minutes in the midafternoon is not a significant adverse impact.³ The Foundation disagrees and believes that the DEIS should treat this as a significant adverse impact. It would leave only a period of 6:45 to 1:25 (seven hours) of sunshine. Only about half that period is useful for growing vegetation. And it is during midday breaks when workers and residents alike are seeking out sunny, vegetated and quiet park spaces.⁴

Second, the maximum heights do not reflect the full development potential of the sites. New shadows are thus likely to last much longer and become a more significant adverse impact on the Park. The DEIS assumes that development sites will be built to their full as-of-right FAR of 18 to 27 FAR. But it does not take into account 4 important ways to boost height and/or FAR: (1) as-of-right purchase of development rights from neighbors (no limit); (2) special permits for public plazas and/or transportation improvements (3 FAR limit); (3) super tall ceiling heights in commercial, residential and mechanical spaces (no current limit); and (4) stilts, terrace floors and other building common spaces (no current limit). Developers are increasingly using each technique to build taller and taller buildings in zoning districts, like East Midtown, that lack specific height limits.

The Foundation's analysis identified six sites that could potentially shadow the park.⁵ It then considers much taller, but realistic, worst-case building heights as set forth in the table below.

	CURRENT HEIGHTS	DEIS HEIGHTS	20 MINS SHADOW TRIGGER HEIGHTS	MAX SHADOW WORST-CASE HEIGHTS	
SITE 7	310	818	715'	840'	
SITE 10	190	580	650'	1425'	
SITE 11	210	720	425'	1116'	
SITE C	295	650	915'	1315'	
SITE D	220	524	975'	1230'	
SITE J	230	552	230'	660'	

² The DEIS mischaracterizes the Park as "low use." In fact, it is a primary destination for office workers and residents seeking a break or lunch spot during the day.

³ The DEIS predicts that the maximum shadow impact on the Park would occur on June 21, 2017 and eliminate direct sunshine from 3:42 to 5:23 p.m.

⁴ The DEIS also measures shadow impacts on hypothetical May 6 and August 6 days. It predicts a loss of 42 minutes of mid-afternoon sunshine on those days.

⁵ The Foundation retained WXY Studio, a respected urban planning, design and architecture firm, to conduct this shadow analysis.

The worst-case heights set forth in the table reflect the height at which a new building would cast its maximum shadow impact on the Park. The building heights are realistic. For example, they are shorter than the new building under construction by SL Green at One Vanderbilt Avenue.

With this analysis, the Park would lose one hour and 20 minutes of sunlight in the midafternoon on May 6 and August 6 analysis dates and two hours and 39 minutes on a June 21 analysis date. This would effectively end afternoon sunshine in the Park and impact vegetation and park users alike. With regard to environmental review standards, it would meet the CEQR Technical Manual's standards for assessing a significant adverse impact:⁶

- A substantial reduction in sunlight available to a sunlight-sensitive feature of the resource to less than the minimum time necessary for its survival (when there was sufficient sunlight in the future without the project).
- A reduction in direct sunlight exposure where the sensitive feature of the resource is already subject to substandard sunlight (*i.e.*, less than minimum time necessary for its survival). Any further reduction will reduce the Park's sunlight
- A substantial reduction in the usability of open space as a result of increased shadows [*i.e.*, sunshine is a defining features of the Park, especially in chilly months, and it is one of the few places where people can seek out sunshine near their offices].

These are not theoretical impacts. The comparison between Greenacre Park and Paley Park (below right) shows what diminished sunlight will do to trees, ivy and other mature plantings.



A significant adverse impact finding requires all of us to work together to find feasible mitigation measures to protect this resource.

3. The DEIS must include mitigation of shadow impacts on the Park.

The City must amend the DEIS to provide for mitigation measures. Fortunately a few reasonable measures are available to protect the Park.

- Provide height limits on the six development sites of concern. The height limit should be the height at which new buildings would begin casting shadows of twenty minutes or more on the Park. In only three cases (sites 7, 11 and J) would this require a limit below

⁶ CEQR Technical Manual p. 8-27.

the worst-case height assumed in the DEIS. In other words—the Foundation’s request would have minimal impact on development under the Rezoning.

- Instead of imposing specific height limits, the City can create a mechanism through which it will conduct further review if and at the time a building application is submitted. There are two ways to trigger that review. First, amend the already-proposed rezoning’s “environmental performance standards” to include mitigation of shadow impacts. As currently proposed, the standards would require the Department of City Planning to certify that energy efficiency standards are met before for new buildings. The standards could be expanded to require mitigation of shadow impacts on specific development sites of concern. Second, the City can create a new category of e-designation for shadow impacts. Currently, the City Planning Commission imposes e-designations on development sites where future development presents risk from excessive noise, impaired air quality or contaminated soil. If and when a developer submits a new building application, the Mayor’s Office of Environmental Remediation works with the applicant to certify that potential impacts are mitigated.⁷ The program can be expanded to shadows to require changes to height or design to reduce shadow impacts below threshold levels.
- Move the rezoning boundary so it does not include Third Avenue. Third Avenue should serve as a transition zone between the very tall buildings of the East Midtown business district and the primarily residential neighborhood east of Third Avenue.

The Foundation is ready to explore each option with the City and memorialize them in this environmental review process. Moreover, the Foundation asks this Community Board and the City to recognize the critical role that Second Avenue plays in allowing light to the Park and commit the City to evaluate reasonable height limits on that street. With a dense cluster of skyscrapers taking shape in East Midtown, it is now vitally important to protect both lower-rise mid-blocks and avenues to the east.

Very truly yours,


Christopher Rizzo

cc: Borough President Gale Brewer
Gail Caulkins, President, Greenacre Foundation
Lois Cremmins, Executive Director, Greenacre Foundation
Christian DiPalermo, CDD Strategies
Councilman Dan Garodnick
Edith Hsu-Chen, Director, Manhattan Office, Department of City Planning
Members, Community Board 6

⁷ The City would amend Zoning Resolution Section 11-15 to provide for shadow-related e-designations.

EXHIBIT A

GREENACRE PARK: A RARE PUBLIC OPEN SPACE JEWEL IN EAST MIDTOWN

Greenacre Park is a vest pocket park located on East Fifty-First Street between Second and Third Avenue, at the edge of the East Midtown business district and the residential neighborhoods to the east. It is one of the most well-loved and well-used green spaces in the City, and helps fill a severe open space shortfall in its neighborhood. This paper addresses the unique role Greenacre Park plays in serving the open space needs of New Yorkers and the midtown business district, its long history of protection and the design qualities that make it a success.

1. Pocket Parks' Success

The History and Significance of Vest-Pocket Parks in Urban Environments

In the 1960's and early 70's, individuals and community groups around the country sought to fill a need for public space in urban environments by converting vacant lots into mini-parks.⁸ These mini-parks consisted of one to four building lots or so, and some were nestled between buildings on mid-blocks and thus called "vest pocket" or "pocket" parks. Most successful among these efforts to establish mini-parks were the creation of vest-pocket parks in very dense urban areas where significant pedestrian traffic coupled with good design and a plan for ongoing maintenance lead to consistent high usage. As William H. Whyte observed in his seminal work, The Social Life of Small Urban Spaces, in dense central business districts, vest pocket parks with greenery and some separation from the street attracted as many visitors as, and in many cases, more visitors than, plazas with far more acreage.⁹

In 1965, as part of the growing attention to urban renewal, New York City with help from the private sector created in Harlem the first vest pocket park in the nation called The Reverend Linnette C. Williamson Memorial Park. In 1967, Paley Park was created in midtown Manhattan which then sparked Ms. Abby Rockefeller Mauzé to create Greenacre Park in 1971.

Pocket parks can serve a variety of functions, including places for reflection, lunch breaks, reading, people watching, meeting friends, small performance spaces and play areas.¹⁰ Almost all include at least plantings and seating.¹¹ Regardless, they "offer refuge from the bustle

⁸ Clare Cooper Marcus and Nanine Hilliard Greene, "Mini Parks and Vest Pocket Parks" in People Places: Design Guidelines for Urban Open Space (ed. Clare Cooper Marcus and Carolyn Francis) 1998, Wiley and Sons.

⁹ Whyte, William H, The Social Life of Small Public Spaces.

¹⁰ See, e.g., Alison Blake, "Pocket Parks", available at http://depts.washington.edu/open2100/pdf/2_OpenSpaceTypes/Open_Space_Types/pocket_parks.pdf. See also Danish Architecture Center, "Copenhagen - Pocket Parks, a Drop of Urban Green." (citing uses of pocket parks in context of Copenhagen's goal of creating 14 new parks by 2015), available at <http://www.dac.dk/en/dac-cities/sustainable-cities/all-cases/green-city/copenhagen---pocket-parks-a-drop-of-urban-green/>

¹¹ Marcus & Greene at 150.

of surrounding urban life and opportunities for rest and relaxation.”¹² They typically serve people living or working within a four-block radius.¹³

The Role of sunlight and vegetation in the quality of park experiences and success of a park

Study after study has found that human health, both physical and mental, is improved when people have the opportunity to connect with the natural world, even in urban parks.¹⁴ In urban environments in particular, where the brain is subject to over-stimulation even in the course of simply navigating the sidewalks, greenery can provide a mental respite: “substantial research shows that natural scenes evoke positive emotions, facilitate cognitive functioning, and promote recovery from mental fatigue.”¹⁵

Sunlight is critical to the success of urban parks. It makes them hospitable places to sit outdoors during cooler months¹⁶ and attracts sunbathers year round. As Whyte observed, people using public space like having the option of moving into and out of the sun.¹⁷ On cool breezy days, park users seek out suntraps – places sheltered from the wind and bathed in sunshine, a feature unique to small pocket parks enclosed on three sides.¹⁸ And when the sun disappears on such days, park use drops off.¹⁹

Sunlight is also critical for vegetation. Without a minimum number of hours of sunlight, even the most shade-tolerant plants will die.²⁰ For example, while honeylocust trees (like those in this park) are generally tolerant of the stresses of urban environments, they only thrive with sufficient sunlight and are “intolerant of shade.”²¹ From a park designer’s and user’s perspective, shade from deciduous trees is far superior to shade from buildings; the former is of the dappled variety, creating a brighter atmosphere and allowing understory potted plants to receive some light.²² Unlike buildings, shade from trees is also seasonally appropriate – trees provide shade in the hottest months but allow the sun’s warming rays to shine through on chilly days from November to April.

¹² Blake at 1.

¹³ Marcus & Greene at 151.

¹⁴ See, e.g. Trust for Public Land, *The Benefits of Parks* at 14-15 (citing studies in academic journals showing that contact with greenery makes people healthier).

¹⁵ University of Washington, “Green Cities, Good Health,” (citing a 2010 article from the journal “Environment and Behavior”) available at https://depts.washington.edu/hhwb/Thm_Mental.html

¹⁶ William H. Whyte, *The Social Life of Small Urban Spaces*, at 40 (Project for Public Spaces, 1980).

¹⁷ Whyte at 42.

¹⁸ Whyte at 44.

¹⁹ Burden, Amanda, *Greenacre Park* at 27.

²⁰ See, e.g., the City Environmental Quality Review Technical Manual, which identifies significant impacts from incremental shadows as those that would reduce sunlight below a level needed for vegetation survival.

²¹ See, e.g., Yale Nature Walk: Honey Locust, available at <http://naturewalk.yale.edu/trees/fabaceae/gleditsia-triacanthos/honey-locust-18>.

²² See, e.g., Sasaki and Associates, “Greenacre Park” (“honey locust trees allow sunlight to penetrate into the area...”) available at <http://www.sasaki.com/project/111/Greenacre%20Park/>.

2. Significance of Greenacre Park

History, design and planning

Greenacre Park, one of the most well-used and beloved pocket parks in New York City,²³ was the brainchild of Abby Rockefeller Mauzé. In 1968, Mrs. Mauzé founded the Greenacre Foundation to maintain and operate one or more parks in New York State for the benefit of the public. The Foundation purchased three lots on East 51st Street between 2nd and 3rd where a garage and store once operated, and transformed them into a vest-pocket park to “provide some moments of serenity in the busy world.”²⁴ Greenacre Park opened to the public in 1971. The diminutive 60-foot by 120-foot Park has several notable features, including a waterfall, three distinct levels, some (but not too much) separation from the street with handsome granite steps and movable seating. The 25-foot high waterfall is the termination of a series of water features beginning near the entrance, where water runs in low relief along the continuous east wall, and is delicately laced with additional water features. The waterfall is sculpturally composed as a series of huge granite blocks and masses of falling water. Mrs. Mauzé and the architect Harmon Goldstone contributed to the evolution of the Park’s design, and the landscape architecture firm Sasaki Associates developed the final design.²⁵

Many incorrectly categorize Greenacre Park as a privately owned public space (POPS). The Park is owned by the Greenacre Foundation, a nonprofit and charitable organization dedicated to public open space. The Park was designed and is operated as a park for the benefit of the public, and its continued maintenance and support are provided for through the Foundation’s privately funded endowment. By contrast, most POPS were constructed by developers in exchange for significant floor area bonuses. Unfortunately, the promised benefits of many POPS have been illusive through poor design, poor upkeep or both.

Horticultural significance

The Park is landscaped with a grove of honeylocust trees, ivy, beds of specimen shrubbery, and changing arrangements of flowering plants. Each performs an important role in the Park. The trees in the central plaza provide dappled shade in the warmer months, and give morning and early afternoon visitors the choice of moving their chairs into or out of the sun. In the hottest months, the trees also offset the urban heat island by serving as natural air conditioners.²⁶ The ivy and shrubbery serve “to offset the mass of stone.”²⁷ And the rotating floral displays provide a “sense of expression of the seasons.”²⁸

Awards and recognitions²⁹

Greenacre Park has received numerous awards and recognitions for its groundbreaking design and its caretakers’ diligent stewardship. For example, in 2004, the Cultural Landscape

²³ See Whyte, tables at 26-27.

²⁴ Rockefeller archives website, available at <http://rockarch.org/collections/family/abbymauze.php>.

²⁵ Burden, Amanda, Greenacre Park; a study by Project for Public Spaces, Inc. at 13, 1977.

²⁶ Trust for Public Land at 20.

²⁷ Burden at 15.

²⁸ Burden at 15

²⁹ Except as otherwise noted, the source for listed awards are the records of the Greenacre Foundation.

Foundation awarded the Greenacre Foundation its Stewardship Excellence Award, for its “superb ongoing care” of this “beautifully intact” park.³⁰ When first built, the park received many awards for design and civic betterment, including the Award of Honor for Excellence in Design from the New York Society of Architects (1972), a Certificate of Commendation from the Parks Council of New York City,³¹ a Certificate of Merit for Excellence in Design from the New York State Association of Architects, and awards from the American Association of Nurserymen and the Foundation for Landscape Studies. And among more informal recognitions, New York Magazine dubbed Greenacre a “winner” of its 1974 Plaza Awards, calling it “tops in popularity for its moveable seating, snack facilities and greenery.”³²

Open Space Shortfall in East Midtown

Mayor Bill DeBlasio’s Plan for One New York prioritizes public access to open space by embracing a “Walk to a Park” initiative. The initiative sets as a goal that, by 2030, 85 percent of New Yorkers will live within walking distance of a park, meaning within a quarter mile of a small park (less than 6 acres) or half a mile of a large park. According to mapping studies conducted by the NYC Department of Parks and Recreation, many of the residential areas of east midtown, particularly the Turtle Bay neighborhood, do not have open space within walking distance.

New York City’s City Environmental Quality Review (“CEQR”) Technical Manual has a passive open space benchmark of .15 acres per 1000 non-residential users. In the recently released Draft Environmental Impact Statement released for the proposed East Midtown Rezoning, the Department of City Planning concluded that the East Midtown study area, including Greenacre Park, has only .066 acres of open space per 1000 non-residential users, well below planning goals and a “quantitative deficiency” that would be exacerbated by the East Midtown rezoning. Thus, Greenacre Park fills a critical need for publicly accessible outdoor space in the density and bustle of East Midtown. Protecting Greenacre and the qualities that make it a success are vital.

Efforts to Protect the Park from Further Encroachment

The Greenacre Foundation and other supporters of Greenacre Park have long recognized that the greatest threat to the Park is the sprouting of tall buildings nearby that would cast the park in further shadow, as happened to Paley Park. Since the early 1980s, the Foundation has responded with vigilance and creativity.

In 1980 a developer sought a waiver of height and setback rules at 805 Third Avenue to construct a building three or four stories higher than would have been permitted, in exchange for creating a covered pedestrian area.³³ A Pratt professor conducted a sun study demonstrating that

³⁰ Center for Cultural Landscape, Stewardship Excellence Awards, available at <http://tclf.org/stewardship-excellence-awards-modern-landscape-architecture-new-york-city-seattle?destination=search-results>

³¹ See Rockefeller archives website.

³² Whyte, William, New York Magazine, July 15, 1974. Available at https://books.google.com/books?id=hukCAAAMBAJ&pg=PA31&lpg=PA31&dq=greenacre+park+awards&source=bl&ots=21WAGFRWSj&sig=qtXFV2PvA_AOWDg9gXWzfmkcK2k&hl=en&sa=X&ved=0ahUKEwiO4_jG67XRAhVnzlQKHW3FDaMQ6AEIWDAN#v=onepage&q=greenacre%20park%20awards&f=false

³³ Suzanne Charle, “New Laws Protect Rights to Unblocked Sunshine,” *New York Times*, July 20, 1980.

the additional increment would in fact curtail sunlight reaching the park during peak use at lunchtime. In public testimony on the proposed waivers, William H. Whyte described Greenacre as “a sort of sun theatre – particularly in the early afternoon when there are the most people and went on to describe the erosion of mid-day light demonstrated in the sun studies.³⁴ Greenacre Trustee Jean Branscombe also expressed concern about the loss of sunlight, particularly the cumulative impacts associated with the recently constructed Random House Building at Third Avenue and 50th Street.³⁵ She pointed out that Mayor Beame had announced the creation of the incentive zoning program from Greenacre Park, highlighting the Park as an example of the type of beautiful public spaces that could be created through the program, and that it would be the height of irony if, instead, incentive zoning were used to destroy it. These arguments prevailed; 805 Third Avenue was denied permission to build the extra floors.

Rather than simply wait for the next threat to arise, the Foundation commissioned an assessment of nearby sites that were most susceptible to future development, and how such sites would impact sunlight to Greenacre. Once the worst threats were identified, The Foundation sought to negotiate sun easements or other protections from some of the most potentially damaging sites.³⁶ Mrs. Abby Milton O’Neill, President of the Greenacre Foundation, purchased the property immediately to the north of the Park at 218 East 52nd Street, and donated its excess development rights to the Foundation.³⁷ The Foundation also secured an important easement for the benefit of the Park from Seymour Durst, owner of 218 East 51st Street (across from Greenacre) and a devoted fan of the Park.³⁸ That agreement was facilitated through a tax benefit designed to encourage such gifts.

With the East Midtown Rezoning, Greenacre Park is once again faced with the prospect of increased density blocking the precious hours of sunlight it still receives. Just like the impacts identified during the 805 Third Avenue debate in 1980, according to a shadow study commissioned by the Foundation, the incremental impacts associated with the East Midtown Rezoning are significant, in that they cut into the Park’s already limited afternoon sunshine, which are its peak use hours. This incremental reduction would reduce hours of sunlight to a level below minimum requirements for vegetation, most of it during peak mid-day hours during the growing season. The Foundation is poised to use all the tools in its arsenal to prevent further encroachment – advocacy with public officials, negotiation with private landowners and an appeal to those who use and love Greenacre to do the same.

³⁴ Rockefeller Archives Center, Greenacre Foundation Collection, papers of William H. Whyte.

³⁵ Id, testimony of Mrs. Branscombe.

³⁶ Rockefeller Archives Center, Greenacre Foundation Collection, papers of Abby O’Neill.

³⁷ Id.

³⁸ Suzanne Charle.