

NEW YORK METHODIST HOSPITAL  
CENTER FOR COMMUNITY HEALTH

---

STATEMENT OF FACTS AND FINDINGS  
IN SUPPORT OF AN APPLICATION FOR A VARIANCE

---

AFFECTED PREMISES:

505-525 6<sup>th</sup> Street

(Block 1084, Lots 25, 26, 28, 39-44, 46,  
48, 50-59, 164, 1001, and 1002)

Community District No. 6, Brooklyn.

---

Kramer Levin Naftalis & Frankel LLP

1177 Avenue of the Americas

New York, New York 10036

---

January 28, 2014

## **I. Introduction**

This is an application (“Application”) under Section 72-21 of the Zoning Resolution of the City of New York (the “Zoning Resolution” or “ZR”) and Section 666 of the New York City Charter to allow the development of a new ambulatory care facility (the “Center for Community Health” or the “Center”) on the campus of New York Methodist Hospital (“NYM” or the “Hospital”). The NYM campus is located in Park Slope, Brooklyn, on two adjacent blocks bounded by 7<sup>th</sup> Avenue, 5<sup>th</sup> Street, 8<sup>th</sup> Avenue, and 7<sup>th</sup> Street. The Center for Community Health would be located on the eastern portion of the northern block (the “Development Site”), across the street from the Hospital’s existing clinical facilities.

The Center for Community Health would be a single building with a maximum height of seven stories plus two mechanical floors, with a maximum elevation of approximately 272 feet above Brooklyn datum and a height above curb level of 150 feet. It would contain approximately 304,000 square feet of zoning floor area. The as-of-right development studied as part of the Application (the “Complying Development”) would contain approximately 310,000 square feet of floor area and would consist of two isolated building segments with narrower, more irregular floor plates. The Complying Development would be eight stories tall, plus two mechanical floors, with a maximum elevation of approximately 276 feet above datum and a height of 150 feet above curb level.<sup>1</sup> One of the Complying Development’s building segments would be constructed over an existing NYM parking garage, which would require major structural work, would lengthen the construction period for the building, and would result in the closure of the garage for approximately 17 months. The proposed Center would require the modification of regulations controlling lot coverage, rear yard equivalents, height and setback, rear yard setbacks, distribution of floor area across zoning district boundaries, and number and surface area of signs. It would also require the modification of the drawings approved in connection with the Board’s special permit for the existing Hospital garage on the block, to accommodate the required parking for the Center.

The Application is necessary because there are practical difficulties which prevent the programmatic needs of NYM from being satisfied by a development which fully complies with the Zoning Resolution. In particular, the Hospital has a programmatic need for adequate and appropriate space for ambulatory care facilities to serve the people of Brooklyn, located on its main campus. The Development Site provides the needed proximity to the Hospital’s existing facilities, but portions of it have narrow, irregular dimensions, and there is a significant slope up from 7<sup>th</sup> Avenue to 8<sup>th</sup> Avenues on 5<sup>th</sup> and 6<sup>th</sup> Streets. As described below, the Complying Development demonstrates that a medical facility that complies with the restrictive zoning

---

<sup>1</sup> Although the Complying Development would reach a higher elevation above datum than the proposed Center, its maximum height above “curb level,” as such term is defined in the Zoning Resolution, would be the same—150 feet. This is because the curb level that is used for purposes of measuring height varies within the Zoning Lot. The tallest portion of the Complying Development would be located farther east than the tallest portion of the proposed Center, on a portion of the Zoning Lot for which the average curb level is slightly higher.

envelope applicable to the Development Site would not be able to satisfy the Hospital's programmatic needs.

The requested modifications would allow the Center for Community Health to have the floor plate configurations, functional adjacencies, and efficient circulation network that are required to satisfy the Hospital's programmatic needs. The Center, which would serve the Hospital's mission of providing outpatient services to the surrounding Brooklyn communities, has been designed to harmonize with the surrounding context, to minimize impacts on the community, and to require the minimum variance necessary to satisfy these needs.

## **II. Statement of Facts**

### **A. The Development Site**

The NYM main campus is located in Park Slope, Brooklyn, on two adjacent blocks bounded by 7<sup>th</sup> Avenue, 5<sup>th</sup> Street, 8<sup>th</sup> Avenue, and 7<sup>th</sup> Street. The Development Site is located on the eastern portion of the northern block, with frontages on 6<sup>th</sup> Street, 5<sup>th</sup> Street, and 8<sup>th</sup> Avenue. The Development Site will be part of a zoning lot that consists of the parcels designated as Block 1084, Lots 25, 26, 28, 39 through 44, 46, 48, 50 through 59, 164, 1001, and 1002 (the "Zoning Lot"). There are a series of contiguous parcels fronting on 5<sup>th</sup> Street which are not part of the Zoning Lot ("out-parcels") and which give the Development Site a U-shape.

The Development Site is currently occupied by NYM-owned low-rise buildings, originally constructed as walk-up residences, and a parking lot, all of which would be demolished in connection with the construction of the Center. The existing buildings on the southern portion of the Development Site consist of five two-story buildings located to the immediate west of the parking lot, which have been converted from residential use to NYM-affiliated medical facilities and offices, and three four-story walk-ups located farther west, which contain apartments for NYM staff and medical students and on-call rooms for NYM departments. The northeast corner of the Development Site is occupied by five three-story walk-ups, which are all vacant. The northwest corner, fronting on 5<sup>th</sup> Street, is occupied by three four-story residential walk-ups, which have been vacated in connection with the development of the Center. See Radius Diagram. The parking lot, located on the southeast corner of the Development Site, serves NYM doctors and contains 79 spaces. The certificates of occupancy for the parking lot indicate a total of 49 spaces accessory to existing hospital uses. These 49 spaces are conservatively assumed to be spaces that are required under the Zoning Resolution.

The remainder of the Zoning Lot to the west of the Development Site is occupied by two Hospital buildings to remain: the Medical Office Pavilion, a five-story building fronting on 7<sup>th</sup> Avenue, containing hospital-related facilities, ground-floor retail, and a 518-space below-grade accessory parking garage with surface parking; and the Wesley House, a 12-story building containing hospital-related facilities and staff dwellings. The existing buildings to remain on the Zoning Lot are the subject of a variance and special permit granted by the Board on January 11, 1994, which waived applicable height and setback, parking, loading, and curb cut regulations to allow the construction of the Medical Pavilion and the garage (BSA Cal. No. 142-92-BZ). The special permit allowed the existing parking garage and deck to contain 518 parking spaces, consisting of 76 required parking spaces accessory to retail uses, 49 required parking spaces accessory to the Wesley House, and 393 permitted parking spaces accessory to hospital-related

uses. The existing buildings to the west of the Development Site must remain in order to allow the Hospital to continue to operate effectively.

The Zoning Lot is a split lot, located in an R6 zoning district (a portion of which has a C1-3 commercial district overlay), an R6B zoning district, and an R7B zoning district. The Development Site, which comprises a majority of the Zoning Lot, lies outside of the commercial overlay.

The Development Site is constrained by a number of unique physical conditions which, when combined with the application of height and setback, lot coverage, and rear yard regulations, and the inability to distribute the permitted floor area across zoning district boundaries, constrain the floor plate dimensions and configuration of a building on the Development Site. The Development Site is the only site on the NYM campus that is available for new construction and that allows the Center to be located proximate to the Hospital's existing clinical facilities. The buildings to remain on the Zoning Lot to the west and the out-parcels on 5<sup>th</sup> Street give the Development Site an irregular configuration, in turn constraining the dimensions of the Center's footprint and floor plates. Further, the Zoning Lot has significant sloping conditions. As shown on the survey dated April 30, 2013, by Gallas Surveying Group, submitted with this Application (the "Survey"), the Development Site slopes downward from 8<sup>th</sup> Avenue toward 7<sup>th</sup> Avenue, with a change in grade of approximately 11 feet as measured from a point at the corner of 6<sup>th</sup> Street and 8<sup>th</sup> Avenue to the midblock portion of 6<sup>th</sup> Street. This change in grade represents slightly more than three-quarters of the height of a typical building floor. As a result of the slope condition, a development that spans the length of the Development Site must have a split ground-floor level, consisting of two connected portions with different slab elevations, which affects both floor-to-floor heights and internal circulation. The slope also results in changing values of the applicable curb level and base plane, which, in combination with applicable height and setback regulations, constrains ceiling heights in a complying development. These practical difficulties are described in greater detail below.

## **B. The Neighborhood**

The area surrounding the Development Site contains primarily low-density residential and community facility uses. The majority of the residential buildings in the neighborhood are three- or four-story rowhouses, typically located on narrow streets. These include the seven rowhouses that are located on the out-parcels adjacent to the Development Site, on 5<sup>th</sup> Street. The brownstones in the neighborhood are typically set back from the street line farther than adjacent apartment buildings, and many feature tall stoops, enclosed paved front yards, vertically proportioned projecting window bays, decorative stonework, and cornices. Although the brownstones were generally constructed as one- or two-family dwellings, many of them have been converted to multi-family walk-up apartments. The area to the east of the Development Site contains many larger, five- to seven-story apartment buildings along 8<sup>th</sup> Avenue and Prospect Park West. To the west of the Development Site, 7<sup>th</sup> Avenue is generally lined with three- and four-story walk-up buildings with local retail establishments on the lower floors as well as with some taller buildings.

The community facilities and institutional uses in the neighborhood include the NYM buildings located to the immediate south of the Zoning Lot, on the southern block of the NYM

campus. This block contains six connected five- to eight-story buildings, referred to as Pavilions, which contain various clinical and educational facilities. The main entrance to the Hospital is located across from the Development Site on 6<sup>th</sup> Street. The Emergency Department entrance and ambulance drop-off area are located on 7<sup>th</sup> Avenue.

The other community facility buildings in the surrounding area are predominately schools and religious institutions. St. Saviour Catholic Church is located at the southeast corner of 8<sup>th</sup> Avenue and 6<sup>th</sup> Street, diagonally across from the Development Site, with two affiliated schools located nearby: Saint Saviour High School, located in a building connected to the Church on 6<sup>th</sup> Street, and Saint Saviour Elementary School, located a block to the south on 8<sup>th</sup> Avenue. The largest school in the area, the former John Jay Educational Campus (which now contains the Secondary School for Law, the Secondary School for Journalism, Park Slope Collegiate, and Millennium Brooklyn High School) is located to the north of the Development Site, directly across 5<sup>th</sup> Street. Other religious institutions in the neighborhood include the Park Slope Methodist Church, All Saints Episcopal Church, the Church of Gethsemane, New York City Church of Christ, the Church of the Virgin Mary, Greenwood Baptist Church, Kingsboro Temple of 7<sup>th</sup>-Day Adventist, Congregation Beth Elohim Temple, and Congregation B'nai Jacob of Park Slope. There is also a branch of the Brooklyn Public Library located on 6<sup>th</sup> Avenue, between 8<sup>th</sup> and 9<sup>th</sup> Streets, and a building housing the Brooklyn Society for Ethical Culture, located on Prospect Park West at 2<sup>nd</sup> Street.

The Development Site is located across the street from the Park Slope Historic District and Park Slope Historic District Extension. The original Historic District, which the Landmarks Preservation Commission ("LPC") designated in 1973, is roughly bounded by Park Place to the north, Flatbush Avenue and Prospect Park West to the east, 14<sup>th</sup> Street to the south, and 6<sup>th</sup>, 7<sup>th</sup>, and 8<sup>th</sup> Avenues to the west. The Extension, which was proposed by the Park Slope Civic Council and designated in 2012, is roughly bounded by 7<sup>th</sup> Street to the north, 8<sup>th</sup> Avenue to the east, 16<sup>th</sup> Street to the south, and the west side of 7<sup>th</sup> Avenue to the west. The Historic District and Extension contain, in addition the rowhouses described above, a mix of historic mansions, apartment houses, and institutional buildings. Although the NYM campus, or some portion of it, may have been informally reviewed and considered for inclusion within the Historic District or the Extension, it was not included in the Park Slope Civic Council's proposed extension area or in the extension that was formally calendared for review by LPC. The NYM campus is not included in any published LPC materials relating to the designated Historic District or Extension.

### **C. Zoning Restrictions Applicable to Zoning Lot**

The R6, R6B, and R7B zoning districts in which the Zoning Lot is located permit Use Groups 1 and 2 residential uses and Use Groups 3 and 4 community facility uses, including ambulatory care facilities and non-profit hospitals and related facilities. The C1-3 commercial overlay district, which applies along the Zoning Lot's 7<sup>th</sup> Avenue frontage but not to the Development Site, allows additional limited commercial uses. The maximum permitted floor area ratio ("FAR") for community facilities is 4.8 in the R6 district, 2.0 in the R6B district, and 3.0 in the R7B district. ZR § 24-11. As shown on the drawings prepared by Perkins Eastman Architects, dated January 28, 2014, included with this Application (the "Drawings"), these FARs allow, respectively, 481,670 square feet of floor area on the R6 portion of the Zoning Lot, 22,426 square feet of floor area on the R6B portion of the Zoning Lot, and 27,024 square feet of floor

area on the R7B portion of the Zoning Lot. The Center for Community Health would not utilize all of the available floor area on the Zoning Lot, but it would require the distribution of permitted floor area across zoning district boundaries, from the R6 portion of the Zoning Lot to the R6B and R7B portions.

The Center would require waivers from other applicable bulk regulations. Within the R6 zoning district, there is a lot coverage limitation of 65 percent on interior and through lots and 70 percent on corner lots, ZR § 24-11; a required rear yard equivalent of 60 feet for through lot portions of a zoning lot, with a required rear yard setback of 20 feet above a height of 125 feet, ZR §§ 24-382, 24-552; a required front setback of 15 feet on wide streets or 20 feet on narrow streets above a height of 60 feet; and a sky exposure plane of 5.6 to 1 on wide streets or 2.7 to 1 on narrow streets, ZR § 24-522. Within the R6B district, there is a lot coverage limitation of 60 percent for through lots, ZR § 24-11; a required rear yard equivalent of 60 feet for through lot portions of a zoning lot, with a required rear yard setback of 10 feet above a height of 40 feet, ZR § 24-552; a street wall location requirement with a minimum base height of 30 feet and maximum base height of 40 feet; and a maximum building height of 50 feet, ZR §§ 24-522, 23-633. Within the R7B district, there is a lot coverage limitation of 80 percent for corner lots, ZR § 24-11; a street wall location requirement with a minimum base height of 40 feet and a maximum base height of 60 feet; and a maximum building height of 75 feet, ZR §§ 24-522, 23-633.

The signage regulations applicable to ambulatory care facilities in residential districts are very restrictive. For non-residential uses, exclusive of hospitals and related facilities (which are listed in the Zoning Resolution separately from ambulatory care facilities), one identification sign with a surface area of up to 12 square feet and a bulletin board with an area of up to 16 square feet are permitted. ZR § 22-231. Flags, banners, and pennants for community facilities are permitted without limitation. ZR § 22-332.

#### **D. New York Methodist Hospital**

NYM is a voluntary, acute-care teaching hospital, located on the same campus in Park Slope, Brooklyn, since its founding by the Methodist Church in 1881. It is affiliated with Weill Cornell Medical College, one of the nation's leading medical schools, and is a member of the New York-Presbyterian Healthcare System. Since the Hospital's founding, its mission has remained the same: to provide excellent healthcare services in a compassionate and humane manner to the people who live and work in Brooklyn and its surrounding areas.

NYM's affiliation with Weill Cornell Medical College supports the Hospital's function as a major teaching hospital. NYM has ten graduate medical education programs and is affiliated with the NYM Center for Allied Health Education, which provides training in five allied health professions. Medical students, residents, and fellows across many specialties—including primary care, surgery, pediatrics, obstetrics and gynecology, anesthesiology, and emergency medicine—receive focused training that teaches these new clinicians to feel comfortable practicing medicine in any setting. The Hospital's experienced faculty not only supervise and educate these young doctors at the patient bedside, but also promote learning through weekly conferences and rounds, including professional rounds, morbidity and mortality conferences, journal club, quality improvement seminars, subspecialty seminars, book reviews, and service rounds.

The NYM main campus contains 651 beds and admits over 40,000 inpatients each year, with the Hospital serving an additional 350,000 outpatient visits annually. During the past 20 years, NYM has enjoyed growth in all services and has more than doubled its inpatient volume. Today it is one of the City's most successful hospitals, with the highest market share of private insured patients in Brooklyn.

NYM's success is due in large part to its highly qualified staff of medical professionals, as well as to its commitment to investing in modern facilities with up-to-date clinical technology. Programs and services that the Hospital has recently introduced include a new state-of-the-art Birthing Center; an advanced interventional pulmonology program; a Center for Sleep Disorders; an extensive robotic surgery service; a Neurosciences Institute, with centers for the treatment of Parkinson's disease, epilepsy, neuropathy, and strokes; and the New York Methodist-Cornell Heart Center, which contains the most modern cardiac surgery and interventional cardiology facilities in Brooklyn and is one of only three such services in the Borough.

Despite a challenging healthcare climate that has negatively affected hospitals elsewhere in New York City and throughout the State, NYM has remained a stable and successful institution. NYM has been acknowledged by both the State Department of Health and independent financial rating agencies as a well-managed, well-financed hospital. This commitment to responsible management, coupled with the Hospital's continued focus on modernizing its facilities, has translated into high-quality medical care for the Hospital's patients. NYM has received numerous accolades for its healthcare services, including recognition by the National Research Corporation as "Consumer Choice #1" in Brooklyn for seven consecutive years.

#### **E. The Need for the Center**

NYM has a programmatic need for adequate and appropriate space for ambulatory care facilities, located on its main campus. As described in the letter from NYM, submitted with this Application (the "NYM Letter"), the nation's healthcare system has evolved over the past two decades—with advances in technology, an aging population, and shifting economic forces—resulting in a transition in medical treatment standards from inpatient to outpatient care. Currently, NYM lacks the amount and type of space it needs to provide medical care to its growing outpatient population.

The shift toward outpatient care is being experienced throughout the healthcare industry. Medical and surgical innovations, combined with the increasing expenses involved in a hospital stay, make it essential that hospitals provide inpatient care only when that care cannot be rendered in any other setting. More and more medical conditions are being effectively treated without an overnight hospital stay or with a hospital stay that is significantly shorter than would have been required just a few years ago. A number of hospitals in New York City have recently expanded their facilities to accommodate a dedicated outpatient center, including Lenox Hill Hospital, Montefiore Medical Center, Memorial Sloan-Kettering Cancer Center, NYU Langone Medical Center, Mt. Sinai Medical Center, the Hospital for Special Surgery, and NewYork-Presbyterian Hospital, Weill Cornell Medical Center.

This transition is related to other trends. Major surgical procedures that require days or weeks of inpatient hospital follow-up care are increasingly being replaced by minimally invasive procedures, which can often be performed on an outpatient basis. Such procedures, although representing state-of-the-art medical care, require space that exceeds the size of current operating rooms because of the need for specialized equipment, as described in the Relocated and New Program Space table attached to the NYM Letter. Imaging devices and robotic systems, for example, are often large and may require additional personnel to operate them. The Hospital's existing buildings are incapable of meeting this need, and current operations are constrained as a result.

The Hospital has a particular need for appropriate, modern space for its radiation oncology center. The radiation oncology center has long been recognized for its excellence, in large part because of the Hospital's continuing investment in its treatment facilities. NYM was a pioneer in the use of stereotactic radiotherapy and has acquired state-of-the-art technologies for intensity modulated radiation therapy, brachytherapy, and three-dimensional conformal radiotherapy. These modern technologies, however, are currently housed in the basement of a 1950s-era campus building that cannot accommodate the types of amenities that are appropriate for cancer patients—many of whom visit the Hospital on a daily basis over a period of several weeks. The Center for Community Health would allow the Hospital to provide its patients with levels of comfort and convenience that are standard in the medical industry today and to expand services to include additional advanced technologies, such as respiratory gated 4-dimensional stereotactic radiotherapy for lung and liver cancers and intraoperative brachytherapy for breast cancer.

The medical industry's emerging focus on prevention, healing, and chronic care, efficiently delivered in an ambulatory care setting, has required a greater integration of primary and specialty care. This model, along with changes in insurance reimbursement systems, has led an increasing number of physicians to switch from private practice to institution-partnered practices. In part because of its affiliation with the New York-Presbyterian Healthcare System and its ability to offer clinical faculty positions at the Weill Cornell Medical College, NYM has been able to attract highly qualified faculty physicians with training and expertise in numerous specialties. Today, the Hospital is affiliated with more than 1,400 doctors and allied health professionals, including over 200 faculty physicians.

As the Hospital continues to integrate and build patient-centered primary care, keeping care accessible to and convenient for patients in local communities, there is increasing demand for more advanced specialty care and for additional state-of-the-art space for physician offices, examination rooms, and treatment/procedure rooms. NYM has created a number of Institutes, such as the Institute for Neurosciences, the Institute for Orthopedic Medicine and Surgery, and the Institute for Cancer Care. These Institutes function most effectively when the Hospital is able to locate all of the facilities needed to care for the patient in one area. Each Institute requires exam rooms, diagnostic facilities, and procedure rooms, along with physician and staff offices, reception areas, and waiting rooms. Assembling all of the necessary services and care providers in a single location would allow the entire episode of care—from diagnosis to treatment—to be centered around the patient and would provide the highest level of service. These Institutes must also be consolidated in a location that is proximate to the Hospital's other

medical care facilities so that faculty physicians have efficient access to needed equipment and enhanced opportunities for collaboration.

NYM also has a need for modern inpatient facilities. The consolidation of outpatient facilities and faculty physician practices in the Center, relocated from other parts of the NYM campus, would allow for the expansion and repositioning of inpatient facilities in the Hospital's existing buildings. Generally, with outpatients no longer sharing inpatient testing and treatment areas, there would be increased efficiency in inpatient care, with inpatient tests and treatments being completed in a more timely manner. The spreadsheet attached to the NYM Letter describes the Hospital's plans for existing spaces vacated by relocated and expanded programs, including the following:

- In some cases, the vacated space would allow for the expansion of an existing adjacent program with inadequate space. For example, the relocation of pre-admission testing would allow for the Hospital's emergency department to expand to satisfy increasing demand; the relocation of ambulatory surgery would allow for enhancements to the adjacent Pediatric Intensive Care Unit; and the relocation of hyperbaric and wound care and of the Hospital's urology practice would allow for enhancements to podiatry, pediatrics, and other practices.
- The expansion of certain programs, such as ambulatory radiology, radiation oncology, and special procedures/endoscopy, would allow the respective existing facilities to be dedicated to inpatient populations, with resulting improvements in patient experience and operational efficiencies.
- Some shared patient rooms may be replaced with private and semi-private rooms, which are now the standard of care for inpatients. The relocation of NYM's women's health practice, for example, would allow the Hospital to reposition its facilities so as to accommodate the elimination of four-bedded inpatient rooms on that floor.

These needed upgrades cannot be made without the construction of the Center. Approximately 30% of the building area in the Center will be for new or expanded programs. The balance of the space is for programs that are currently located on the Hospital's main campus or in leased space in the neighborhood.<sup>2</sup>

#### **F. The Proposed Development**

The Center for Community Health, as designed to address the programmatic needs described above, would not comply with applicable provisions of the Zoning Resolution

---

<sup>2</sup> The transportation analyses in the Environmental Assessment Statement were completed using projections from NYM of the incremental number of patients, visitors and staff associated with the proposed Center and were not based on square footage of new or expanded programs.

controlling lot coverage, rear yard equivalents, height and setback, rear yard setbacks, distribution of floor area across zoning district boundaries, and number and surface area of signs. See Drawings Z-03 and Z-04. The proposed Center therefore requires a variance from the Board.

### *1. Programmatic Need*

The Center for Community Health would be a single building with a height of seven stories plus two mechanical floors, with a maximum elevation of approximately 272 feet above Brooklyn datum and a height above curb level of 150 feet. See Drawings Z-08 through Z-11. It would contain approximately 304,000 square feet of zoning floor area, sufficient to accommodate the Hospital's needed programs. The Center would contain an ambulatory surgery center; a new endoscopy suite; clinical institutes for physician practice care delivery; an urgent care center; conference rooms; and a below-grade parking facility with connections to the Hospital's existing parking facilities to the west. The clinical institutes would include cardiology, neurosciences, orthopedics, urology, a women's center, and cancer care with diagnostic radiology services. The Hospital expects to construct a below-grade pedestrian and utility tunnel between the proposed Center and the existing Hospital facilities across 6<sup>th</sup> Street to the south, which tunnel would be subject to the approval of a revocable consent by the NYC Department of Transportation. As described in the letter from Perkins Eastman, submitted with this Application (the "Architect's Letter"), the building's floor plate dimensions and configurations would accommodate needed ambulatory care facilities, while providing adjacencies and direct connections to promote efficient, collaborative health care with minimal risk of contamination and infection.

The eastern and western wings of the Center's U-shaped floor plates would have dimensions of approximately 95 feet by 195 feet, which are necessary to accommodate the surgical suite's 12 operating rooms, at approximately 550 square feet each, on the third floor, with adjacent dedicated surgical preparation rooms. See Diagram P-3, attached to the Architect's Letter. This floor plate also accommodates the associated Central Sterile Services on the floor immediately below the surgical suite, and the surgical recovery rooms on the floor immediately above. See Diagrams P-2 and P-4, attached to the Architect's Letter. The fourth floor would also contain patient preparation and recovery facilities for special procedures, consisting of 10 dedicated preparation rooms and 18 dedicated recovery rooms. See Diagram P-4, attached to the Architect's Letter. The surgical suite, Central Sterile Services, and patient preparation and recovery facilities would be served by dedicated elevators to provide efficient, sterile, and controlled connections. These adjacencies would promote efficient communication and coordination among caregivers, minimize travel distances for doctors, nurses, and patients, and minimize the duplication of support functions. See Diagrams P-2 through P-4, attached to the Architect's Letter. The building's floor plate dimensions are also necessary to provide the required area and adjacencies for the new NYM Institute for Cancer Care, which would contain 60 infusion rooms and support space, on the 6<sup>th</sup> floor.

The Center for Community Health would contain a number of Institutes which are staffed by faculty and affiliated physicians; one of these would be located on the same floor as the Hospital's new surgical suite. See Diagrams P-3 through P-5 – P-7, attached to the Architect's Letter. The Center's large floor plates are optimal for these Institutes, as they would enable

flexible programming and adjacencies within a single floor. They would also minimize the duplication of shared facilities that are needed on each floor, such as reception and waiting areas. The ability of an Institute to be located on a single floor and proximate to other medical care facilities in the building and on the block to the south would promote comprehensive, coordinated caregiving for the Hospital's patients.

The consolidation of the Center's program in a single building would allow for the efficient, vertical stacking of facilities, with a central elevator core that minimizes travel distances for visitors and staff. The vertical alignment of facilities would facilitate circulation among floors, including, as described above, efficient connections among the Hospital's Institutes and other medical care facilities. There would also be segregated staff and service elevator cores that allow for the controlled delivery of healthcare services. See Diagrams P-2 through P-4, attached to the Architect's Letter. The operating rooms would have a direct, controlled and clean pathway to the building's Central Sterile Services on the floor immediately below, minimizing both the risk of infection incidents and the time it takes for sterile supplies to be delivered. See Diagrams P-2 and P-3, attached to the Architect's Letter. More generally, the large, relatively uniform floor plates of the proposed Center would provide flexibility for the future re-programming of the building, including by accommodating centrally located, shared support spaces that can readily be utilized by new and expanding facilities.

The building would have two pedestrian entrances, a main entrance at mid-block on 6<sup>th</sup> Street, serving the ground floor, and a secondary entrance at the corner of 8<sup>th</sup> Avenue and 6<sup>th</sup> Street, serving the first floor. The latter entrance would be limited to use by NYM staff during the daytime. Public circulation and amenity space would be situated along the southern portion of the building to create visual continuity along 6<sup>th</sup> Street. The difference in elevation between the ground floor and the first floor would be negotiated by an interior communicating stair midway along the length of the building, near the central elevator core. See Drawings Z-15 and Z-16. The central bank of both passenger and service elevators would additionally provide stops on each portion of the ground floor. While this added circulation space and the modified elevator operations decrease overall building efficiency and occupy floor space that could otherwise be devoted to program, they represent an optimal solution given the unique conditions of the Zoning Lot.

The Center's 6<sup>th</sup> Street entrance would be served by a protected vehicular driveway, interior to the block and accessible by a curb cut on 6<sup>th</sup> Street, which would provide direct pick-up and drop-off access to the building's lobby and central elevators. The driveway would run through the Development Site in a loop for its entire north-south length, providing spaces for standing vehicles so as to prevent queuing on 6<sup>th</sup> Street. See Diagram P-G, attached to the Architect's Letter. This covered area would be accessible to pedestrians from both 6<sup>th</sup> Street and, through a street wall opening that is blocked to vehicles, from 5<sup>th</sup> Street. Vehicles that access the driveway from 6<sup>th</sup> Street would be able to continue along the loop and exit on 6<sup>th</sup> Street or directly access the below-grade parking garage, which connects to the existing parking garage on the block. This scheme is designed to keep vehicular circulation within the Zoning Lot so as to minimize traffic activity on adjacent streets. It also directs vehicular entries and exits to 6<sup>th</sup> Street, adjacent to Hospital buildings and away from neighboring residences.

The construction of the Center would result in the displacement of 49 required parking spaces in the existing NYM doctors' parking lot and 38 parking spaces in the existing NYM garage. The Center's below-grade garage would include 350 parking spaces, which is 67 fewer than the 417 accessory parking spaces required under the applicable provisions of the Zoning Resolution, and which does not account for the 49 eliminated required parking spaces in the doctors' parking lot. The construction of the Center would therefore require a modification of the drawings approved in connection with the Board's special permit for the existing garage to accommodate the required parking for the Center. In particular, the parking calculations for the existing garage would be modified to recharacterize the uses to which the spaces are accessory: (i) 67 spaces which are currently designated as permitted parking spaces accessory to hospital uses would instead be designated as required spaces accessory to the Center, and (ii) 49 such spaces would instead be designated as required spaces accessory to existing hospital uses, replacing the required spaces in the existing doctors' lot. The 350 parking spaces in the Center would be more than sufficient to satisfy the anticipated parking demand generated by the development, as described in Attachment G to the Environmental Assessment Statement (the "EAS").

The proposed Center's loading berths would be in an enclosed area accessed toward the west end of 5<sup>th</sup> Street and would be located over the eastern portion of the Hospital's existing parking deck, to the west of the protected vehicular driveway and immediately adjacent to the Center's service elevators. See Diagram P-G, attached to the Architect's Letter. This location ensures that both truck maneuvering and loading activity occurs off street and requires access only from an existing curb cut on 5<sup>th</sup> Street that is not adjacent to any residences. The portion of the building located above the existing parking deck would have a second floor containing a boiler plant, and the roof above would be planted as a green space to provide a visual amenity to Hospital visitors.

The proposed Center would have a total of four signs to provide wayfinding for pedestrians and vehicles: a 120-square-foot sign demarcating the pedestrian and vehicular entrances on 6<sup>th</sup> Street, two 19-square-foot signs demarcating the corner pedestrian entrance at 8<sup>th</sup> Avenue and 6<sup>th</sup> Street (one on each frontage), and a 16-square-foot building directory located near the main vehicular driveway and pedestrian lobby entrance. See Drawing Z-52. These signs satisfy the Hospital's need for effective wayfinding on a campus that contains a mix of hospital and healthcare facilities with multiple entrances. These entrances are located on streets that slope between 7<sup>th</sup> and 8<sup>th</sup> Avenues, which limits the visibility of signs. The sign for the main entrance on 6<sup>th</sup> Street, in particular, must be of a sufficient size to be visible to approaching vehicles at appropriate distances.

## *2. Relationship to the Neighborhood*

In addition to providing the community with modern healthcare facilities, the Center for Community Health will offer an opportunity to improve the physical relationship of the Hospital campus with the surrounding neighborhood. To that end, the design of the Center incorporates input from members of the surrounding community. NYM presented preliminary plans for the Center to community leaders, to groups of neighborhood residents, and at a public meeting hosted by the Park Slope Civic Council and Community Board 6 in June and July of 2013. At those meetings, NYM solicited comments, and revised plans were again presented to these

groups in September 2013. NYM also invited e-mail comments from community members. As part of the public review process for this Application, NYM again presented and obtained feedback on the Center at the November 21, 2013, public hearing of the Community Board 6 Landmarks/Land Use and Transportation/Public Safety Committees, and again at the January 6, 2014, public meeting of the Executive, Landmarks/Land Use, and Transportation/Public Safety Committees.

The design of the proposed Center incorporates feedback received through these channels and, as of the date hereof, reflects modifications made to address the conditions set forth in Community Board 6's positive recommendation of the Application. Among the design changes are the following:

- The Center's vehicular driveway is directly accessible only from 6<sup>th</sup> Street, whereas preliminary designs included an exit from the driveway on 5<sup>th</sup> Street. This modification was made in response to concerns of residents that the 5<sup>th</sup> Street exit would result in increased vehicular traffic on that street, adjacent to existing residences and the John Jay Educational Campus.
- The building massing was reconfigured to reduce the height and volume of the building on the eastern end of the block, along 8<sup>th</sup> Avenue and adjacent to the neighboring buildings on 5<sup>th</sup> Street, and to provide greater building setbacks in those areas. More of the building's volume is now concentrated on the middle of the Zoning Lot, near other Hospital buildings and directly adjacent to NYM's existing 12-story Wesley House.
- Consistent with the conditions set forth in Community Board 6's positive recommendation of the Application, further reductions were made to the base wall and building height in the R7B district. The portion of the Center located in the R7B district would now have a complying front wall height of approximately 60 feet on 5<sup>th</sup> Street and 8<sup>th</sup> Avenue and in most areas would comply with the 75-foot maximum building height, but a small portion abutting the R6 district, containing location-sensitive electrical rooms and other programs, would have a building height of approximately 89 feet. The front setback on 5<sup>th</sup> Street in the R6B district was also increased in depth above the fourth floor, from 15 feet to 26 feet. These modifications resulted in a reduction of the Center's floor area by more than 7,000 square feet. To accommodate this loss in floor space, the building's program was modified by reducing the amount of non-clinical support space on the sixth floor in the R7B district and on the fifth, sixth, and seventh floors in the R6B district.
- Consistent with the conditions set forth in Community Board 6's positive recommendation of the Application, the maximum height of the building in the R6 district was reduced by approximately 2 feet, from 152 feet to 150 feet, so as to match the height of the Complying Development.
- The portion of the Center that faces the rear yards of the 5<sup>th</sup> Street buildings owned by others was modified to be set back from the property line by 10 feet at the first floor and 30 feet above, thereby providing the neighboring properties with additional light and air.

- A number of the Center’s open areas, including rooftops created by the building’s setbacks, have been designed as green spaces to provide visual amenities to Hospital visitors and the surrounding neighborhood.
- Consistent with the conditions set forth in Community Board 6’s positive recommendation of the Application, the number of parking spaces in the proposed Center was reduced from 539 to 350. As discussed above, this change necessitates a modification to the drawings approved in connection with the Board’s special permit for the existing NYM garage to accommodate required parking for the Center.

The Center’s massing and facade treatment have been designed to be compatible with the existing architectural character of Park Slope. The building volume is articulated with setbacks and recesses, and its facade treatment is varied, so that it reads as multiple buildings that are appropriate in scale and character to the surrounding area. The development is further visually organized by its setbacks and facade treatment into three horizontal layers: a one- to two-story masonry base, which creates a pedestrian-scale presence at grade; a middle, defined by terra cotta-clad street walls of two, four, and six stories in height, which match the scale of adjacent buildings on 5<sup>th</sup> Street, 8<sup>th</sup> Avenue, and 6<sup>th</sup> Street; and a top, set back from the street and treated with glass to be less visually prominent. The lines that demarcate these three layers would in some places step down to follow the slope of 5<sup>th</sup> and 6<sup>th</sup> Streets, replicating a visual pattern seen in the existing rows of brownstones in the neighborhood.

The Center’s design would in other ways make reference to architectural features found in Park Slope. The masonry portions of the building’s facade would be of a color that relates to the existing historic buildings in the neighborhood, and they would be articulated with deep-cut architectural details that recall the texture of brownstone facades. In addition, the Center’s windows would be recessed, with vertical proportions that reference those of the existing buildings in the area. The portion of the Center located at the intersection of 8<sup>th</sup> Avenue and 6<sup>th</sup> Street would incorporate vertically aligned bay windows and ground-floor glazing to create an open and welcoming corner presence. This type of corner presence is found in other institutional buildings in the area, including the Greenwood Baptist Church, located across from the Zoning Lot on 7<sup>th</sup> Avenue.

#### **G. The Complying Development**

This Application also includes plans for a development that would be as-of-right, *i.e.* that would not create any non-compliance with the Zoning Resolution and would not require a variance (the “Complying Development”).

The Complying Development would contain approximately 310,000 square feet of floor area – approximately 6,000 square feet more than the proposed Center for Community Health – and, in order to accommodate this floor area within the permitted development envelope, would consist of two building segments with narrower floor plates. One segment would have a similar footprint to the proposed Center’s, but without a west wing, and the other segment would be constructed directly over the existing parking deck on the Zoning Lot. The Complying Development would be eight stories tall, plus two mechanical floors, with a maximum elevation of approximately 276 feet above datum and a height of 150 feet above curb level. See Drawings

Z-29 through Z-33. As with the proposed Center, the Hospital expects to construct a below-grade pedestrian and utility tunnel connecting the proposed Center to the existing Hospital facilities across 6<sup>th</sup> Street, subject to the approval of the NYC Department of Transportation.

The application of lot coverage, height and setback, rear yard equivalent, rear yard setback, and floor area distribution regulations to the Complying Development, in combination with constraints created by the Development Site's unique physical conditions, would result in narrow floor plate configurations that limit opportunities for functional adjacencies and require the duplication of support spaces. In particular, the dimensions of the development's eastern wing on 8<sup>th</sup> Avenue would be severely constrained by lot coverage limitations applicable to corner lots in the R7B zoning district. The eastern wing would be further constrained by street wall, building height, and rear yard setback regulations which require setbacks above 60 feet and preclude development altogether above 75 feet. The building's central segment on 6<sup>th</sup> Street would be limited in its configuration by lot coverage limitations applicable to the interior lot portion of the Zoning Lot, and its upper floors would have particularly shallow dimensions because of the application of height and setback and rear yard setback regulations. The Complying Development's western segment would be physically separated from the rest of the building above vehicular driveway and loading area in order to comply with the required rear yard equivalent. This isolated segment would have very narrow dimensions in order to comply with the required rear yard equivalent, as well as with the height and setback regulations applicable to the Zoning Lot's 5<sup>th</sup> Street frontage. See Diagrams C-G through C-5 – C-8, attached to the Architect's Letter.

The slope of the Development Site results in significant variations in the applicable curb level and base plane, as calculated pursuant to Section 12-10 of the Zoning Resolution. Along 6<sup>th</sup> Street in the R6 zoning district, the applicable curb level is 131.8 feet in the corner lot, 126.44 feet in the interior lot, and 122.62 feet in the through lot. See Drawing Z-05. The elevation of the applicable maximum front wall height thus steps down from 8<sup>th</sup> Avenue toward 7<sup>th</sup> Avenue. This results in constrained floor-to-floor heights of 9 feet and 12 feet 11 inches for portions of the fourth floor in the Complying Development. See Drawings Z-32 and Z-41. These low heights significantly impede the ability to program these portions of the building.

The Complying Development's constrained floor plates would require an inefficient configuration for the Hospital's new ambulatory care facilities, with the building's 12 operating rooms located in separate suites on the third and fourth floors; patient preparation split between the third and fourth floors; and surgical recovery on the second floor. See Diagrams C-2 through C-4, attached to the Architect's Letter. Preparation and recovery functions for special procedures would be located in shared space on the fourth floor. See Diagram C-4, attached to the Architect's Letter. Central Sterile Services and the materials management facilities would be located at the extreme northeast corner of the building on the third floor, far removed from the operating rooms. See Diagram C-3, attached to the Architect's Letter. In addition, materials management would be housed in the east end of this segment on the second floor, physically separate from the eastern building segment, resulting in inefficiencies in the movement of material to and from the facilities located in the eastern segment. See Diagram C-2, attached to the Architect's Letter. This configuration would create a number of operational issues:

- Doctors, nurses, and other staff would be dispersed over multiple floors, and their travel times between treatment areas would be increased, resulting in an inefficient circulation network. This condition would also make it more challenging to maintain the quality of patient health and safety.
- Patients would experience longer and less comfortable transfers between treatment areas.
- Additional Hospital staff would be needed to accommodate the operating rooms and support spaces on each floor.
- Certain support functions and programmatic elements required by the Department of Health would have to be duplicated on each floor, reducing the amount of space in the building available for other healthcare functions.
- The lack of a direct connection between Central Sterile Services and the operating rooms would increase the risk of infection incidents.
- The lengthy travel path between the materials management facilities and the operating rooms would significantly reduce efficiency and increase the risk of cross-contamination.

In addition, the constrained floor plates would result in significant program impacts to the Institute for Cancer Care and preparation and recovery suites. The Complying Development would accommodate only 20 infusion rooms with minimal support, as compared to the 60 infusion rooms in the proposed Center, and only 16 shared preparation and recovery rooms, as compared to the 10 dedicated preparation rooms and 18 dedicated recovery rooms in the proposed Center.

The physical isolation of the Complying Development's western segment would create additional issues. The building segment would be connected to the remainder of the development only by the at-grade vehicular driveway and loading area. See Diagram C-G, attached to the Architect's Letter. The separation of medical care facilities in the two building segments would severely impact the efficiency of the Complying Development's circulation network and impede communication and coordination among the Hospital's caregivers. Further, the western segment above the ground floor would necessarily be limited to faculty practices, as the permitted building envelope does not accommodate the floor plate dimensions that are needed for ambulatory care facilities. Because these floor plates are smaller than those of the proposed Center, there would be fewer faculty practice suites—five, as compared to seven in the proposed Center—and they would need to be spread out over seven floors instead of four, requiring an inefficient duplication of shared spaces, such as reception and waiting areas. See Diagrams C-G through C-5 – C-8, attached to the Architect's Letter. The narrow floor plates would also limit the flexibility of the space for reprogramming. Last, the separation of medical care functions in two building segments would require an additional entrance to the Complying Development on 5<sup>th</sup> Street, encouraging curbside drop-offs, and would require additional elevator cores, with negative impacts on the building's programmatic and energy efficiencies. See Diagram C-G, attached to the Architect's Letter. The additional elevator cores would require additional structural bracing at the below-grade levels, representing a significant construction expense. See Drawings Z-50 and Z-51.

The shallow floor plates of the Complying Development would result in a high ratio of façade surface area to floor area in the building. This ratio would translate to increased heat gain in the summer and increased heat loss in the winter, with resulting decreases in the building's energy efficiency. To offset these thermal swings, the Complying Development would need to be outfitted with upsized mechanical equipment, at a greater operational cost (and possibly construction cost) to the Hospital. Further, the Complying Development would be less efficient than the proposed Center in its utilization of floor space, with a net-to-gross square foot ratio that is approximately 13 percent worse than that of the proposed Center.

The construction of the Complying Development would result in the displacement of the 49 required parking spaces in the existing doctors' lot and 40 parking spaces in the existing garage on the Zoning Lot. The Complying Development would include a total of 515 parking spaces: 49 parking spaces to replace the required spaces in the doctors' lot, 40 parking spaces to replace the displaced spaces in the existing garage, and 426 required accessory parking spaces for the new development.

As discussed in greater detail in the letters from Severud Associates and Lend Lease submitted with this Application (respectively, the "Severud Letter" and the "Lend Lease Letter"), the construction of the Complying Development over the existing parking garage would necessitate major structural alterations to the garage, including the demolition and reconstruction of structural floors, columns, and footings and, in accordance with applicable codes, the introduction of seismic-resisting elements such as shear walls. This work would not only represent a significant expense to the Hospital, but would also lengthen the construction period for the Complying Development and would require that the entire garage be closed for a 17-month period, resulting in the loss of all of the existing 518 parking spaces during that time.

Although the Complying Development would consist of two building segments with entrances on 6th Street, 8th Avenue, and 5th Street, it would have only one 12-square-foot sign, on 6th Street, and one 16-square-foot bulletin board, in accordance with the signage regulations applicable to ambulatory care facilities. This signage program would be wholly inadequate to orient visitors to the Center and to other Hospital buildings on campus, as two of the building's frontages would be entirely unmarked and the third, on 6th Street, would have a sign of an insufficient size to be visible to approaching vehicle drivers. Visibility of the directional sign would be further limited by the significant slope of 6<sup>th</sup> Street between 7<sup>th</sup> and 8<sup>th</sup> Avenues.

#### **H. The Department of Buildings Objections**

The Department of Buildings has raised the following objections with respect to the proposed Center:

- 1. Proposed FAR in R6B and R7B portions both exceed maximum permitted because proposed "floor area" distribution across district boundary lines is not permitted; contrary to ZR 24-11, ZR 24-17, and ZR 77-02.**

Under Section 24-11 (Maximum Floor Area Ratio and Percentage of Lot Coverage), the maximum permitted FAR for community facilities is 4.8 in the R6 district, 2.0 in the R6B district, and 3.0 in the R7B district. This allows, respectively, 481,670 square feet of floor area on the R6 portion of the Zoning Lot, 22,426 square feet of floor area on the R6B portion of the

Zoning Lot, and 27,024 square feet of floor area on the R7B portion of the Zoning Lot. See Drawing Z-03. Pursuant to Section 77-02 (Zoning Lots Not Existing Prior to Effective Date or Amendment of Resolution), for a split zoning lot that did not exist on the effective date of the Zoning Resolution or an applicable amendment thereto, each portion of the zoning lot is subject to the regulations applicable in the zoning district in which the portion is located.

The Center for Community Health would not utilize all of the available floor area on the Zoning Lot, but it would require the distribution of permitted floor area across zoning district boundaries, from the R6 portion to the R6B and R7B portions. The R6B portion of the Zoning Lot would contain 46,087 square feet of floor area, exceeding the maximum permitted amount by 23,661 square feet, and the R7B portion would contain 41,175 square feet of floor area, exceeding the maximum permitted amount by 14,151 square feet. The R6 portion of the Zoning Lot would contain 378,134 square feet of floor area, including 161,534 square feet in existing buildings on the Zoning Lot to remain. See Drawing Z-03.

**2. Proposed lot coverage of (a) corner lot in R6 district, (b) interior lot in R6 district, (c) through lot in R6 and R6B districts, and (d) corner lot in R7B district exceeds the maximum; contrary to ZR 24-11.**

Under Section 24-11 (Maximum Floor Area Ratio and Percentage of Lot Coverage), the maximum permitted lot coverage for a community facility use is, in R6 zoning districts, 65 percent for through and interior lots and 70 percent for corner lots; in R6B zoning districts, 60 percent for through and interior lots and 80 percent for corner lots; and in R7B zoning districts, 65 percent for through and interior lots and 80 percent for corner lots. Following the construction of the proposed Center, the southeast corner lot portion of the Zoning Lot, located in an R6 district (and labeled "Corner Lot C" on the Drawings), would have a lot coverage of 97.4 percent; the interior lot fronting on 6<sup>th</sup> Street, located in an R6 district (and labeled "Interior Lot" on the Drawings), would have a lot coverage of 66.8 percent; the through lot located to the west and southwest of the out-parcels on the block (labeled "Through Lot B" on the Drawings) would have a lot coverage of 92.2 percent in the R6 district and 89 percent in the R6B district; and the northeast corner lot portion, located in an R7B district (and labeled "Corner Lot D" on the Drawings) would have a lot coverage of 94.9 percent. These portions of the Zoning Lot would be non-complying with respect to the applicable lot coverage regulations. See Drawings Z-03 and Z-06.

**3. Proposed rear yard at through lot portion in R6 and R6B zoning districts is contrary to ZR 24-382 (Required rear yard equivalents).**

Pursuant to Section 24-382 (Required rear yard equivalents), in residential districts, any through lot of 110 feet or more in depth must provide a rear yard equivalent, measuring a total of 60 feet in depth, in one of three specified ways. In R6B and R7B zoning districts, the rear yard equivalent may only be in the form of a 60-foot-deep open area located midway between the through lot's two street frontages. Any portion of a building used for community facility uses is a permitted obstruction, provided its height does not exceed one story and in no event 23 feet. ZR § 24-33. The portion of the Center located on "Through Lot B" of the Zoning Lot, as shown on the Drawings, exceeds a height of 23 feet. See Drawings Z-03, Z-07 through Z-09.

**4. Height and setback limitations for (a) the R6 district portion, above both narrow (6<sup>th</sup> Street) and wide street (8<sup>th</sup> Avenue) and (b) the R6B and R7B district portions above narrow street (5<sup>th</sup> Street) are both contrary to ZR 24-522.**

Within the R6 zoning district, there is a maximum permitted front wall height of 60 feet, above which a building must be set back from the street line by 20 feet on a narrow street. Beyond the required setback distance, the building may not pierce a sky exposure plane of 2.7 to 1 on a narrow street. ZR § 24-522 (Front setbacks in districts where front yards are not required). The portion of the Center fronting on 6<sup>th</sup> Street, a narrow street, would extend above 60 feet within the required setback distance, with a maximum height of 132 above curb level, and would pierce the sky exposure plane. See Drawings Z-03 and Z-08 through Z-10.

Pursuant to Section 23-633 (Street wall location and height and setback regulations in certain districts), made applicable to community facility developments by Section 24-522, buildings in R6B and R7B zoning districts may not encroach beyond a building envelope defined by specified minimum and maximum base heights, required setbacks above the base, and maximum building height. In R6B zoning districts, there is a minimum base height of 30 feet and maximum base height of 40 feet, a required setback of 15 feet from a narrow street, and a maximum building height of 50 feet. In R7B zoning districts, there is a minimum base height of 40 feet and maximum base height of 60 feet, a required setback of 10 feet from a wide street and 15 feet from a narrow street, and a maximum building height of 75 feet. In both the R6B and R7B districts, the street wall is required to align with the street wall of an existing adjacent building. The portion of the Center located in the R6B district, fronting on 5<sup>th</sup> Street, would have a front wall with a height of approximately 74 feet at the street line and, beyond the required 15-foot setback, a maximum building height of approximately 141 feet. The street wall would align with the street walls of the adjacent rowhouses, allowing for the rowhouses' bay windows to visibly project, but would have a large opening to provide pedestrians with access to the Center's vehicular driveway area and visitor entrance. The portion of the Center located in the R7B district would have a complying front wall height of approximately 60 feet on 5<sup>th</sup> Street and 8<sup>th</sup> Avenue and in most areas would comply with the 75-foot maximum building height, but a small portion abutting the R6 district would have a building height of approximately 89 feet. See Drawings Z-08 through Z-11.

**5. Required rear setbacks for R6 and R6B district portions are contrary to ZR 24-552.**

Under Section 24-552 (Required rear setbacks for tall buildings), in R6 districts, no portion of a building located more than 125 feet above yard level may be nearer to a rear yard line than 20 feet. In R6B districts, no portion of a building that exceeds the maximum base height of 40 feet may be nearer to a rear yard equivalent line than 10 feet. The portions of the Center located on "Through Lot B" and on the interior lot of the Zoning Lot, as shown on the Drawings, encroach into these required rear yard line setbacks. See Drawings Z-08 and Z-09.

**6. Proposed signs exceed maximum permitted number and surface area contrary to ZR 22-321.**

In residential zoning districts, non-residential buildings, exclusive of hospitals and related facilities, are permitted a maximum of one identification sign, with an area not exceeding 12

square feet, and one bulletin board, with an area not exceeding 16 square feet. ZR § 22-321 (Nameplates or identification signs). The proposed Center would have a total of four signs to provide wayfinding for pedestrians and vehicles: a 120-square-foot sign demarcating the pedestrian and vehicular entrances on 6th Street, two 19-square-foot signs demarcating the corner pedestrian entrance at 8th Avenue and 6th Street (one on each frontage), and a 16-square-foot building directory located near the main vehicular driveway and pedestrian lobby entrance. See Drawings Z-13 and Z-14.

### III. Statement of Findings

The following is a statement of how this case meets each of the required five findings under Section 72-21 of the Zoning Resolution:

**A. There are unique physical conditions or exceptional topographical conditions peculiar to and inherent in the zoning lot which create practical difficulties and unnecessary hardship in complying with the bulk limitations of the Zoning Resolution which are not due to circumstances created generally by the strict application of the provisions of the Zoning Resolution in the neighborhood or district in which the zoning lot is located.**

As described below, the unique physical conditions of the Zoning Lot, and the location and configuration of existing improvements on and adjacent to the Zoning Lot, constrain development on the Development Site, thereby creating practical difficulties or unnecessary hardship in complying with the lot coverage, height and setback, rear yard equivalent, rear yard setback, floor area distribution, and sign regulations of the Zoning Resolution. To the extent that development constraints are attributable to existing building conditions on a zoning lot, such conditions may be considered a “unique physical condition” causing a practical difficulty or unnecessary hardship to satisfy finding (a) set forth in Section 72-21 of the Zoning Resolution. Further, the Hospital’s programmatic needs additionally require modification of these regulations, as well as of regulations controlling the number and surface area of signs. Where a non-profit educational or religious institution’s programmatic needs create practical difficulties and unnecessary hardship in complying strictly with the Zoning Resolution, a variance should be granted unless it contravenes public health, safety, or welfare. Cornell University v. Bagnardi, 68 N.Y.2d 583 (1986).

#### 1. Practical Difficulties

The Development Site is the only site on the NYM campus that is available for new construction and that allows the Center to be located proximate to the Hospital’s existing clinical facilities. The existing improvements to remain on the Zoning Lot and the out-parcels on 5<sup>th</sup> Street significantly limit the design and configuration of the Center by giving the Development Site an irregular U-shape with narrow dimensions. These conditions, when combined with the application of the Zoning Resolution’s bulk regulations, constrain the dimensions of the Center’s footprint and floor plates.

Further, the Zoning Lot has significant sloping conditions. As shown on the Survey, the Development Site slopes downward from 8<sup>th</sup> Avenue toward 7<sup>th</sup> Avenue, with a change in grade of approximately 11 feet as measured from a point at the corner of 6<sup>th</sup> Street and 8<sup>th</sup> Avenue to the midblock portion of 6<sup>th</sup> Street. This change in grade represents slightly more than three-quarters of the height of a typical building floor. As a result of the slope condition, a development that spans the length of the Development Site must have a split ground-floor level, impacting floor-to-floor heights and internal circulation. The slope also results in changing values of the applicable curb level and base plane, which, in combination with applicable height and setback regulations, constrains ceiling heights in the Complying Development.

Because of these physical constraints and their effect on a building's bulk and floor plate configurations, a development that complies with applicable zoning regulations creates practical difficulties for NYM in satisfying the Hospital's programmatic needs. The inadequacies of the Complying Development are:

- The building's surgical facilities and support spaces lack needed adjacencies and connections. Its twelve operating rooms would be split between the third and fourth floors; patient preparation would be split between the third and fourth floors; and surgical recovery would be located on the second floor. Preparation and recovery functions for special procedures would be located in shared space on the fourth floor. Central Sterile Services and the materials management facilities would be located at the extreme northeast corner of the building on the third floor, far removed from the operating rooms. In addition, materials management would be housed in the east end of this segment on the second floor, physically separate from the eastern building segment, resulting in inefficiencies in the movement of material to and from the facilities located in the eastern segment. See Diagrams C-2 through C-4, attached to the Architect's Letter. These conditions would create the following operational issues:
  - Doctors, nurses, and other staff would be dispersed over multiple floors, and their travel times between treatment areas would be increased, resulting in an inefficient circulation network. This condition would also make it more challenging to maintain the quality of patient health and safety.
  - Patients would experience longer and less comfortable transfers between treatment areas.
  - Additional Hospital staff would be needed to accommodate the operating rooms and support spaces on each floor.
  - Certain support functions and programmatic elements required by the Department of Health would have to be duplicated on each floor, reducing the amount of space in the building available for other healthcare functions.
  - The lack of a direct connection between Central Sterile Services and the operating rooms would increase the risk of infection incidents.
  - The lengthy travel path between the materials management facilities and the operating rooms would significantly reduce efficiency and increase the risk of cross-contamination.
- The constrained floor plates would result in significant program impacts to the Institute for Cancer Care and preparation and recovery suites. The Complying Development would accommodate only 20 infusion rooms with minimal support, as compared to the 60 infusion rooms in the proposed Center, and only 16 shared preparation and recovery rooms, as compared to the 10 dedicated preparation rooms and 18 dedicated recovery rooms in the proposed Center.

- The Complying Development's facilities would be isolated in two separate building segments, severely impacting the efficiency of the development's circulation network and impeding communication and coordination among the Hospital's caregivers. The separation of medical care functions in two building segments would also require an additional entrance to the Complying Development on 5<sup>th</sup> Street, encouraging curbside drop-offs, and would require additional elevator cores, with negative impacts on the building's programmatic and energy efficiencies. The additional elevator cores would require additional structural bracing at the below-grade levels, representing a significant construction expense.
- The western segment of the Complying Development would necessarily be limited to small faculty practices above the ground floor, as it would not have adequate dimensions to accommodate Institutes that consolidate patient care in one location. This is antithetical to current medical practice of assembling all of the necessary services and care in a single area.
- The Complying Development would have a net-to-gross square foot ratio that is approximately 13 percent worse than that of the proposed Center, indicating an inefficient utilization of floor space.
- The small floor plates of the western building segment would limit the number of faculty practice suites to five, as compared to seven in the proposed Center. They would also require that the faculty practices be spread out over seven floors (instead of four, as in the proposed Center), requiring an inefficient duplication of shared spaces, such as reception and waiting areas.
- Portions of the fourth floor of the Complying Development would have constrained floor-to-floor heights of 9 feet and 12 feet 11 inches. See Drawings Z-32 and Z-41. These low heights significantly impede the ability to program these portions of the building.
- The shallow floor plates of the Complying Development would result in a high ratio of façade surface area to floor area in the building. This ratio would translate to increased heat gain in the summer and increased heat loss in the winter, with resulting decreases in the building's energy efficiency. To offset these thermal swings, the Complying Development would need to be outfitted with upsized mechanical equipment, at a greater operational cost (and possibly construction cost) to the Hospital.
- The Complying Development would have only one 12-square-foot sign and one 16-square-foot bulletin board, even though it would consist of two isolated building segments with three street frontages and a vehicular driveway. Two of the streets—5<sup>th</sup> and 6<sup>th</sup> Streets—have a significant slope such that visibility is constrained, particularly at the lower end of the Streets toward 7<sup>th</sup> Avenue. This signage would be wholly inadequate to orient visitors to the Center and to other Hospital buildings on campus.
- The construction of the Complying Development over the existing parking garage would necessitate major structural alterations to the garage, including the demolition and reconstruction of structural floors, columns, and footings and, in accordance with

applicable codes, the introduction of seismic-resisting elements such as shear walls. This work would not only represent a significant expense to the Hospital, but would lengthen the construction period and also require that the entire garage be closed for a 17-month period, resulting in the loss of all of the existing 518 parking spaces during that time. See Severud Letter and Lend Lease Letter.

The Center for Community Health, in contrast, would satisfy NYM's programmatic needs and would address these practical difficulties, as follows:

- The Center's U-shaped floor plates would have sufficient dimensions to accommodate the surgical suite's 12 operating rooms, at approximately 550 square feet each, on the third floor. See Diagram P-3, attached to the Architect's Letter. The associated Central Sterile Services would be accommodated on the floor immediately below the surgical suite, and the patient preparation and recovery facilities, consisting of 10 dedicated preparation rooms and 18 dedicated recovery rooms, would be accommodated on the floor immediately above. The surgical suite, Central Sterile Services, and patient preparation and recovery facilities would be served by dedicated elevators to provide efficient and controlled connections. These adjacencies would promote efficient communication and coordination among caregivers, minimize travel distances for doctors, nurses, and patients, and minimize the duplication of support functions.
- The floor plate dimensions would provide the required area and adjacencies for the new NYM Institute for Cancer Care, which would contain 60 infusion rooms and support space, on the sixth floor.
- The Center's large floor plates are optimal for Institutes, as they allow for the colocation of facilities needed to care for a patient in a single area. They would also minimize the duplication of shared facilities that are needed for physician practices, such as reception and waiting areas that are required on each floor. The ability to locate each Institute on a single floor, and in proximity to other medical care facilities in the building and on the block to the south, would promote comprehensive, coordinated caregiving for the Hospital's patients.
- The Center would have floor-to-floor heights of approximately 14 feet or more so as to accommodate the building's modern healthcare equipment and facilities.
- The large, relatively uniform floor plates of the proposed Center would provide flexibility for the future re-programming of the building, including by accommodating centrally located, shared support spaces that can readily be utilized by new and expanding facilities.
- The vertical stacking of the Center's program in a single building would allow the building to be served by a central elevator core that minimizes travel distances for visitors and staff.
- The Center would also have segregated staff and service elevator cores that allow for the controlled delivery of healthcare services. The operating rooms would have a direct,

controlled and clean pathway to the building's Central Sterile Services on the floor immediately below, minimizing both the risk of infection incidents and the time it takes for sterile supplies to be delivered.

- The proposed Center would have a total of four signs to provide wayfinding for pedestrians and vehicles: a 120-square-foot sign demarcating the pedestrian and vehicular entrances on 6<sup>th</sup> Street, two 19-square-foot signs demarcating the corner pedestrian entrance at 8<sup>th</sup> Avenue and 6<sup>th</sup> Street (one on each frontage), and a 16-square-foot building directory located near the main vehicular driveway and pedestrian lobby entrance. These signs would provide effective wayfinding on a campus that contains a mix of hospital and healthcare facilities with multiple entrances, located on streets with significant slopes that limit visibility. The sign above the entrance to the vehicular driveway would be visible to approaching vehicles at appropriate distances.

## 2. Existing Buildings on Zoning Lot

The Board has repeatedly found, and the courts have repeatedly affirmed, that to the extent that constraints on a development are attributable to existing buildings on the zoning lot, such existing buildings may be considered a “unique physical condition” inherent in a zoning lot causing a practical difficulty or unnecessary hardship to satisfy the finding set forth in Section 72-21(a) of the Zoning Resolution. See Weill Cornell Medical College Biomedical Research Building, 411-431 East 69<sup>th</sup> Street (BSA Cal. No. 170-08-BZ); Columbia University Northwest Science Building, 3030 Broadway, Manhattan (BSA Cal. No. 113-06-BZ).<sup>3</sup>

---

<sup>3</sup> Other cases where the Board has looked to existing buildings as unique physical conditions include: Columbia University School for Children and Faculty Housing, 2824-2834 Broadway (BSA Cal. No. 306-00-BZ) (variance from height and setback, lot coverage, rear yard equivalent, supplementary use, minimum window distance and zoning room requirements granted on lot with existing buildings); Polytechnic University, 101 Johnson Street, Brooklyn (BSA Cal. No. 164-00-BZ) (variance from sky exposure plane regulations granted on lot with existing buildings because layout of college dormitory to be constructed would otherwise be inefficient); Actors' Fund of America, 469-475 West 57th Street (BSA Cal. No. 116-94-BZ) (area variance modifying alternate front setback regulations granted for proposed 30-story community facility where programmatic needs foreclosed removing 10 feet from front of existing church on zoning lot); 142-148 East 57th Street (BSA Cal. No. 74-97-BZ) (area variance modifying alternate front setback regulations granted for proposed residential development where removing 10 feet in front of existing MTA substation on zoning lot would have been contrary to MTA's programmatic needs); The Berkeley Carroll School, 697-701 Carroll Street, Brooklyn (BSA Cal. No. 220-97-BZ) (non-profit PK through 12 School granted variance to locate rear yard equivalent more than 5 feet from midway between the lot's two street lines); The American Baptist Churches of Metropolitan New York, 527-31 West 22nd Street, Manhattan (BSA Cal. No. 217-92-BZ) (non-profit organization granted variance to partially demolished existing, obsolete 100-year-old warehouse building for conversion to residence for homeless persons with AIDS); Dr. James Smith, 50 East 69th Street, Manhattan (BSA Cal. No. 1070-84-BZ) (in residential district, obsolete four-story School building allowed to be converted to medical office); Horvath Studios, 744-746 Greenwich Street, Manhattan (BSA Cal. No. 9-95-BZ) (pre-

(continued)

The case law construing the uniqueness provision confirms that the plain meaning of the statutory language is controlling, and that this Board, as it has in the past, may look to the characteristics of existing buildings on a zoning lot in making the uniqueness finding. See, e.g., Guggenheim Neighbors v. Board of Estimate, Index No. 29290/87, (N.Y. Sup. Ct. Jun. 10, 1988) (affirming grant of variance, discussed above, and stating “the appropriateness of looking to such factors as developmental and zoning history and improvements to the property is supported by case law”), aff’d, 145 A.D.2d 998 (1st Dep’t 1988), lv. to app. denied, 74 N.Y.2d 603 (N.Y. 1989); 260 West Broadway Associates v. Board of Estimate of the City of New York, N.Y.L.J., June 7, 1979, at 11, col. 5 (Sup. Ct. N.Y. Co.) (affirming grant of a variance, court upheld the Board’s finding of uniqueness based, in part, upon the fact that the “unusual shape of the building . . . its stairways and its service cars make it unsuitable” for proposed commercial use); 97 Columbia Heights Housing Corp. v. Board of Estimate of the City of New York, N.Y.L.J., Oct. 9, 1984, at 12, col. 5 (Sup. Ct. N.Y. Co.), aff’d, 111 A.D.2d 1078 (1st Dep’t 1985), aff’d, 67 N.Y. 2d 725 (1986) (reinstating variance, court affirmed Board’s finding that “parcel presented unique physical characteristics owing to the demolition of a ninety-year old fire-gutted building whose foundation was initially excavated in a less sophisticated age”).

### 3. Cornell Doctrine

The requested modifications are required to meet the programmatic needs of NYM—namely, adequate and appropriately configured space for ambulatory care facilities, located on the Hospital’s main campus. As described above, and as will be described further below, this application meets the four findings applicable to nonprofit institutions under Section 72-21 of the Zoning Resolution required for the Board to issue the requested variance. Because of the Hospital’s status as a non-profit teaching hospital, its programmatic needs should also be taken into account in determining if a variance is warranted. In Cornell University v. Bagnardi, 68 N.Y.2d 583 (1986), the Court of Appeals held that schools have a presumed beneficial effect on the community which may be rebutted only with evidence of “a significant impact on traffic congestion, property values, municipal services and the like.” Further, “[t]he imposition of . . . [any] requirement unrelated to the public’s health, safety or welfare, is . . . beyond the scope of the municipality’s police power. . . .” The fundamental premise of the Cornell decision is that land use authorities must afford special treatment to schools and related uses because they “singularly serve the public’s welfare and morals” and because of “their presumed beneficial effect on the community.” Id. at 593, 595.

(continued from previous page . . .)

existing non-conforming vacant garage building on split lot allowed to be enlarged into a residential district to accommodate non-conforming photographic studio); 86th Street East Theaters, 210 East 86th Street, Manhattan (BSA Cal. No. 62-96-BZ) (office/theater building with non-conforming theater allowed to be enlarged to accommodate two additional screens in residential district); and numerous loft conversion use variances which permitted obsolete existing buildings in manufacturing or commercial districts to be converted to residential use (i.e., 40 West 17th Street, Manhattan (BSA Cal. No. 506-80-BZ); 130 Barrow Street, Manhattan (BSA Cal. No. 862-80-BZ); 121 West 17th Street, Manhattan (BSA Cal. No. 75-81-BZ); 130 West 25th Street, Manhattan (BSA Cal. No. 672-80-BZ).

Applications in which the Board has considered school and institutional programmatic needs in connection with the grant of variances include the following: New York Presbyterian Hospital, 1273-1285 York Avenue (BSA Cal. No. 325-12-BZ) (variance from height and setback, lot coverage, rear yard, floor area and parking regulations to permit a new maternity hospital and ambulatory diagnostic or treatment health care facility); NYU Langone Medical Center Science Building (BSA Cal. No. 163-12-BZ) (variance from height and setback, rear yard equivalent, lot coverage, and tower coverage regulations to accommodate floor plate requirements and to allow for integration of building with existing campus facilities); NYU Langone Medical Center 240 East 38<sup>th</sup> Street (BSA Cal. No. 152-11-BZ) (variance from arcade regulations and from City Planning Commission certification requirement for design changes to existing plazas to provide reasonable patient access to building and an appropriate open space environment); NYU Langone Medical Center Kimmel Program, 400-424 East 34<sup>th</sup> Street (BSA Cal. No. 186-10-BZ) (variance from rear yard, rear yard equivalent, height and setback, rear yard setback, tower coverage, maximum permitted parking, minimum square footage per parking space, and curb cut requirements to accommodate floor plate requirements of hospital and energy buildings and to allow for required connections to existing buildings); NYU Langone Medical Center Emergency Department Expansion, 522-566 & 596-600 First Avenue (BSA Cal. No. 41-10-BZ) (variance from rear yard and signage regulations to accommodate the floor plate requirements of emergency department enlargement and because development site was compromised by irregular dimensions and existing improvements); Weill Cornell Medical College Biomedical Research Building, 411-431 East 69<sup>th</sup> Street (BSA Cal. No. 170-08-BZ) (variance from floor area, lot coverage, front and rear height and setback, and rear and side yard regulations granted to accommodate the floor area and floor plate requirements and because of required adjacency of proposed biomedical research building to existing Medical Center campus); Columbia University Northwest Science Building, 3030 Broadway, Manhattan (BSA Cal. No. 113-06-BZ) (variance from lot coverage and height and setback regulations granted to accommodate floor plate requirements of academic research building and because development site was compromised by adjacent existing buildings); Columbia University School for Social Work, 1255-1257 Amsterdam Avenue (BSA Cal. No. 362-01-BZ) (variance from height and setback and minimum distance between buildings and side yard requirements granted to accommodate floor plate requirements of school building); Polytechnic University, 101 Johnson Street, Brooklyn (BSA Cal. No. 164-00-BZ) (variance from sky exposure plane regulations granted on lot with existing buildings because layout of college dormitory to be constructed would otherwise be inefficient); and The Nightingale Bamford School, 16-26 East 92nd Street, Manhattan (BSA Cal. No. 207-86-BZ) (school granted variance and special permit to enlarge existing community facility building where the inadequacy of the existing building hampered the school's ability to satisfy educational needs of its students). Copies of the Board's resolutions approving these applications are included with the Application.

The Cornell decision's principles are directly applicable in this case. As a teaching hospital and an acute care member institution of the New York Presbyterian Healthcare System, NYM is entitled to significant deference under New York State law as to zoning and its ability to rely upon programmatic needs in support of the subject variance application. As discussed above, the Medical Center has a need for adequate and appropriately configured space for ambulatory care facilities, with efficient adjacencies and circulation pathways. The Center for Community Health would satisfy this need, whereas the Complying Development would not. Further, this application is consistent with the Cornell decision because the requested variances

would not contravene public health, safety or welfare. As discussed in greater detail under finding (C) of this Statement and in the EAS, the proposed Center would be compatible with the character of the surrounding neighborhood and would not result in any significant adverse environmental impacts.

**B. Because of such physical condition there is no reasonable possibility that the development of the zoning lot in strict conformity with the provisions of the Zoning Resolution will bring a reasonable return, and the grant of a variance is therefore necessary to enable the owner to realize a reasonable return from such zoning lot, except that this finding shall not be required for the granting of a variance to a non-profit organization.**

Since NYM is a non-profit organization, the Section 72-21(b) finding is not required to grant the variance requested by this Application. Rather, the variance requested is necessary to enable the Hospital to develop the Zoning Lot with improvements that meet its programmatic needs.

**C. The variance, if granted, would not alter the essential character of the neighborhood or district in which the zoning lot is located, would not impair the appropriate use and development of adjacent property, and would not be detrimental to the public welfare.**

The Center for Community Health would be in keeping with the institutional uses found in the surrounding neighborhood and would be compatible with the residential uses in the area. As an NYM facility, it would represent an extension of an existing, prominent community facility in the area, and it would be located among a number of schools and religious institutions. The Center's bulk would also be compatible with the existing character of the neighborhood. The Development Site's immediate context is defined by existing buildings on the NYM campus, including the 12-story Wesley House on the Development Site and the complex of five- to eight-story Pavilions on the block to the south. There are also a number of existing large, five- to seven- story buildings on 8<sup>th</sup> Avenue and Prospect Park West, to the east of the Development Site. The buildings across 5<sup>th</sup> Street vary in use and character, from the tall, nearly full-lot coverage John Jay Educational Campus, which comprises a majority of the block to the west, to the four-story rowhouses farther east.

The Center would not impair the appropriate use and development of adjacent property. The proposed Center was designed to be sensitive to the varied building forms in the surrounding area, including along 8<sup>th</sup> Avenue and 5<sup>th</sup> Street, and to incorporate community input regarding the configuration of the building envelope. The building's volume is thus concentrated on the western portion of the Development Site, away from neighboring residences on 8<sup>th</sup> Avenue and 5<sup>th</sup> Street, and near existing Hospital buildings, such as the 12-story Wesley House. The building's western wing is principally located to the west of the rowhouses across 5<sup>th</sup> Street and is set back 26 feet above the fourth floor to minimize its presence on the street. The portion of the Center that faces the rear yards of the out-parcels on 5<sup>th</sup> Street is set back from the property line by 10 feet at the first floor and 30 feet above so as to provide the neighboring properties with additional light and air. Many of the accessible roof areas created by the building's setbacks

would be landscaped as green spaces, providing a visual amenity to the surrounding neighborhood.

Further design modifications were made to the Center in response to the conditions set forth in Community Board 6's positive recommendation of the Application. Building heights in the R7B district were reduced so that all but a small portion of the building, abutting the R6 district, now complies with the applicable height and setback regulations. The front setback in the R6B district was increased in depth above the fourth floor so as to significantly exceed the required setback, as described above, thus further reducing the scale of the building along 5<sup>th</sup> Street. In addition, the maximum height of the building in the R6 district was reduced by approximately 2 feet, from 152 feet to 150 feet, so as to be consistent with the Complying Development.

The proposed Center's site plan is designed to minimize the effect of the building's operation on surrounding properties and vehicular traffic. The vehicular driveway in the building would contain spaces for standing vehicles so as to prevent queuing on 6<sup>th</sup> Street. Vehicles that access the driveway from 6<sup>th</sup> Street would be able to continue along the driveway's loop and exit on 6<sup>th</sup> Street or directly access the below-grade parking garage, which would connect to the existing parking garage on the block. This design is intended to keep vehicular circulation within the Zoning Lot so as to minimize traffic activity on adjacent streets. It also directs vehicular entries and exits to 6<sup>th</sup> Street, adjacent to Hospital buildings and away from neighboring residences. The Center's loading berths would be enclosed and located on an interior portion of the Zoning Lot, ensuring that both truck maneuvering and loading activities occur off street.

The Center's architectural features have been designed to be compatible with the existing architectural character of Park Slope. The building volume is articulated with setbacks and recesses, and its facade treatment is varied, so that it reads as multiple buildings that are appropriate in scale and character to the surrounding area. The development is further visually organized by its setbacks and facade treatment into three horizontal layers: a one- to two-story masonry base, which creates a pedestrian-scale presence at grade; a middle, defined by masonry-clad street walls of two, four, and six stories in height, which match the scale of adjacent buildings on 5<sup>th</sup> Street, 8<sup>th</sup> Avenue, and 6<sup>th</sup> Street; and a top, set back from the street and treated with glass to be less visually prominent. The lines that demarcate these three layers would in some places step down to follow the slope of 5<sup>th</sup> and 6<sup>th</sup> Streets, replicating a visual pattern seen in the existing rows of brownstones in the neighborhood.

The Center's design would in other ways make reference to historic architectural features found in Park Slope. The base and middle portions of the building's facade would be of a color that relates to the existing historic buildings in the neighborhood, and they would be articulated with deep-cut architectural details that recall the texture of brownstone facades. In addition, the Center's windows would have vertical proportions that reference those of the existing buildings in the area. The portion of the Center located at the intersection of 8<sup>th</sup> Avenue and 6<sup>th</sup> Street would incorporate vertically aligned bay windows and ground-floor glazing to create an open and welcoming corner presence. This type of corner presence is found in other institutional buildings in the area, including the church located across from the Zoning Lot on 7<sup>th</sup> Avenue.

As analyzed in the EAS, the development of the Center would not result in any significant adverse impacts with respect to land use, shadows, historic and cultural resources, noise, air quality, traffic or any other impact category. The Center would provide a benefit to the surrounding neighborhood and the City as a whole by supporting the Hospital's clinical programs with modern outpatient facilities.

In sum, the Center would not alter the essential character of the neighborhood or district in which the Zoning Lot is located, would not impair the appropriate use and development of adjacent property, would not be detrimental to the public welfare, and would, in fact, provide a great benefit to the neighborhood and the City as a whole.

**D. The practical difficulties and unnecessary hardship have not been created by the owner or its predecessor in title.**

The practical difficulties and unnecessary hardship to which NYM is subject have resulted from (i) the existing physical conditions of the Development Site, including its U-Shape, sloping streets, three frontages, and the presence of existing buildings on the Zoning Lot, (ii) the programmatic needs of the Hospital, and (iii) the application of the provisions of the Zoning Resolution to this particular Zoning Lot. The practical difficulties and unnecessary hardship have not been created by the Hospital or its predecessor in title.

**E. Within the intent and purposes of the Zoning Resolution, the variance, if granted, is the minimum variance necessary to afford relief.**

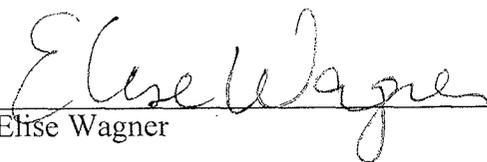
The modifications requested are the minimum necessary to afford relief from the application of the Zoning Resolution. The Hospital requires a modern outpatient center, located proximate to its existing facilities, with floor plates that accommodate needed adjacencies and circulation pathways. The Center for Community Health satisfies these programmatic needs without exceeding the maximum permitted floor area on the Zoning Lot, in a building that encroaches beyond the permitted envelope primarily in areas that are internal to the NYM campus. Changing the design of the Center so as to require lesser modifications would result in compromised floor plate dimensions, with fewer needed adjacencies, increased duplication of support spaces, less efficient internal circulation, less flexibility for reprogramming, and less effective wayfinding. In short, the variances requested are the minimum necessary to afford relief.

**IV. Conclusion**

For the foregoing reasons, we respectfully request that the Board approve this Application for a variance.

Respectfully submitted,

Kramer Levin Naftalis & Frankel LLP

By:   
Elise Wagner

New York, New York  
January 28, 2014