

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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In the Matter of the Application of

Index No. 165880/2025

COMMITTEE TO PROTECT OUR LENOX HILL
NEIGHBORHOOD, INC., CIVITAS CITIZENS INC., 145
EAST 76TH STREET CORPORATION, EAST 76TH
REALTY CO., INC., 829 PARK AVENUE
CORPORATION, PARK AND 76TH ST. INC., 885 PARK
AVENUE CORPORATION, 863 PARK AVENUE, INC.,
PARK AVENUE AND SEVENTY-SEVENTH STREET
CORPORATION, 875 PARK AVENUE CORPORATION,
1065 LEXINGTON AVENUE CORPORATION, ANDREW
PEARCE, BARBARA MINTZ, ELIZABETH
HERKELRATH, WILLIAM HERKELRATH, HILARY
CECIL-JORDAN, LENORE PASSAVANTI, PIERRE VAN
BOCKSTAELE, and WENDY LEHMAN LASH,

**VERIFIED AMENDED
PETITION
AND COMPLAINT**

Petitioners/Plaintiffs,

For a Judgment Pursuant to Article 78 and Sections 3001
and 6301 of the New York Civil Practice Law and Rules,

-against-

THE CITY OF NEW YORK, NEW YORK CITY
COUNCIL, NEW YORK CITY PLANNING
COMMISSION, LENOX HILL HOSPITAL and
NORTHWELL HEALTH, INC.,

Respondents/Defendants.

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Petitioners/Plaintiffs COMMITTEE TO PROTECT OUR LENOX HILL
NEIGHBORHOOD, INC., CIVITAS CITIZENS INC., 145 EAST 76TH STREET
CORPORATION, EAST 76TH REALTY CO., INC., 829 PARK AVENUE CORPORATION,
PARK AND 76TH ST. INC., 885 PARK AVENUE CORPORATION, 863 PARK AVENUE,
INC., PARK AVENUE AND SEVENTY-SEVENTH STREET CORPORATION, 875 PARK
AVENUE CORPORATION, 1065 LEXINGTON AVENUE CORPORATION, ANDREW

PEARCE, BARBARA MINTZ, ELIZABETH HERKELRATH, WILLIAM HERKELRATH, HILARY CECIL-JORDAN, LENORE PASSAVANTI, PIERRE VAN BOCKSTAELE, and WENDY LEHMAN LASH (collectively, “Petitioners”), by their attorneys Davidoff Hutcher & Citron LLP, as and for their verified amended petition and complaint (“Amended Petition”) against Respondents/Defendants THE CITY OF NEW YORK, NEW YORK CITY COUNCIL, NEW YORK CITY PLANNING COMMISSION (collectively, “the City”), LENOX HILL HOSPITAL and NORTHWELL HEALTH, INC. (collectively, “Northwell”) (hereinafter, the City and Northwell are collectively referred to as “Respondents”), allege as follows:

PRELIMINARY STATEMENT

1. This is a hybrid Article 78 proceeding and action to vacate and annul the unlawful and unprecedented zoning approvals granted by the City to Northwell to construct a massive new facility in the heart of a residential community on the Upper East Side of Manhattan as part of the proposed redevelopment and expansion of Lenox Hill Hospital. Northwell will be pursuing financing of at least \$2.5 billion, using public funds, to pay for a project that will add only 25 beds to the existing hospital. The City’s zoning approvals blatantly violate established New York law. Accordingly, Petitioners – including residents abutting the hospital who will incur significant damage from the project – request an order vacating and annulling the approvals.

2. The approvals and the process by which they were obtained by Northwell constitute clear violations of the State Environmental Quality Review Act (“SEQRA”), N.Y. ECL 8-0101 *et seq.*, and the City Environmental Quality Review (“CEQR”), 43 RCNY 6-01 *et seq.*; 62 RCNY 5-01 *et seq.* The result, if not reversed, would comprise illegal spot zoning by conferring upon Northwell a unique and singular advantage unavailable to other property owners in the neighborhood, and would afford no corresponding public benefit whatsoever to the community.

Indeed, the proposed project would have devastating consequences to community character, urban planning and design, and public safety, and would create an assortment of other adverse environmental impacts, including shadow impacts, noise pollution, disruption of traffic patterns, traffic congestion, production of smog and other air-quality issues, and result in otherwise avoidable construction impacts which would be expected to endure for at least eight years.

3. Worse, the Final Environmental Impact Statement (“FEIS”) (NYSCEF Doc. No. 49), prepared at the behest of Northwell, reflects that critical facts pertaining to the neighborhood and the extent to which its municipal ecosystem would be adversely affected, were mischaracterized or flat-out misrepresented, while mitigation measures were disregarded and alternatives completely dismissed. In every conceivable sense, Northwell’s plan, which is nothing short of an institutional vanity project, is the consequence of a campaign by a well-funded hospital system to obtain approval of changes to the City’s Zoning Resolution that cannot be justified on the actual facts, and which would, if not reversed, cause lasting damage to the surrounding community while providing no meaningful public benefit.

4. SEQRA requires governmental agencies to consider the environmental impacts of their actions prior to rendering certain defined discretionary decisions called Actions. The primary purpose of SEQRA is to inject environmental considerations directly into governmental decision making. *Alpan v. Koch*, 75 N.Y.2d 561, 569 (1990) (quoting *Coca-Cola Bottling Co. v. Bd. of Estimate*, 72 NY.2d 674, 679 (1988)). Consistent with the Act’s overarching purpose, the “environment” that SEQRA is designed to protect is *broadly* defined to include:

the physical conditions which will be affected by proposed action, including land, air, water, minerals, flora, fauna, noise, objects of historic or aesthetic significance, existing patterns of population concentration, distribution or growth and existing community or neighborhood character.

ECL §8-0105(6). And when enforced in combination with CEQR, the environmental issues regulated by SEQRA encompass approximately 20 distinct areas of environmental concern, ranging from those referenced above, to land use and zoning (CEQR Tech Man. Ch. 4), socioeconomic conditions (*id.* Ch. 5), urban design and visual resources (*id.* Ch. 10), transportation (*id.* Ch. 16), public health (*id.* Ch. 20) and construction impacts (*id.* Ch. 22). In this way, SEQRA and CEQR provide a broad spectrum of environmental regulation to minimize and/or eliminate where possible, adverse impacts on the City's neighborhoods and communities resulting from municipal decision-making.

5. In this instance, Northwell's proposed project threatens severe and wide-ranging environmental consequences precipitated by an ill-conceived plan that was not properly presented to the City's decision-makers. The predominant flaw in Northwell's proposed project is the extent to which its scale and bulk would threaten the surrounding community without any corresponding public benefit. In particular, Northwell's plan would reverse decades of precedent embodied in the New York City Zoning Resolution and Zoning Map, which was heralded in 1916 as the nation's first comprehensive zoning ordinance. One of the key features of the 1916 Zoning Resolution, which has remained a constant over the last 109 years of comprehensive land use regulation in New York City, has been controlling and harmonizing building size and shape. Indeed, the Zoning Resolution was intended to create a framework for managing the overall size and shape of new buildings, in furtherance of the protection of public health, safety and general welfare. The approvals at issue in this case conflict starkly with the very purpose of comprehensive zoning and, in particular, they contravene New York City's longstanding zoning policy and its

well-considered and comprehensive zoning plan (Janes Aff. ¶¶ 3-5, NYSCEF Doc. No. 15, pp. 2-4).¹

6. The Lenox Hill Hospital zoning approvals constitute unlawful “spot zoning” in favor of an individual entity, and violate New York City General City Law Section 20(25), which expressly empowers the City to enact zoning regulations “designed to promote the public health, safety and general welfare ... in accord with a well-considered plan.” As set forth below, the Lenox Hill Hospital zoning approvals do not promote public health, safety and general welfare. Instead, they are contrary to what has been the time-honored and well-considered plan for the development of buildings in the Lenox Hill neighborhood as well as similarly-situated communities in the city.

7. Comprehensive zoning was conceived in New York and adopted across the United States and around the world, to implement a community's long-term vision by regulating land use, building dimensions, and population density to promote public health, safety, and welfare. Rather than benefitting the general community and safeguarding public health, safety and welfare, however, the Lenox Hill Hospital zoning approvals at issue in this proceeding provide a singular benefit unique to Northwell in furtherance of its ambition to create a luxury facility rivaling its

¹ This Amended Petition is accompanied by the affirmations of George M. Janes addressing zoning and land use issues demonstrating how the zoning approvals are contrary to the comprehensive zoning plan that underlies the City's Zoning Resolution (“Janes Aff., NYSCEF Doc. Nos. 15-17”); the amended affirmation of Fred Hyde addressing the lack of need for the proposed expansion and the fact that the project will cost more than \$2.5 billion which will be borne by New Yorkers in the form of higher hospital costs (“Hyde Aff.”, NYSCEF Doc. Nos. 81-84); and the affirmation and supplemental affirmation of Lois Uttley addressing how the project will exacerbate existing health-care inequities in New York City by adding hospital capacity where it is least needed, further disadvantage patients in underserved communities who need better access to timely affordable health care the most and how Northwell repeatedly changed its occupancy and vacancy rates to secure the City's approvals by changing the number of beds it was reporting to the NYS Department of Health (“Uttley Aff.”, NYSCEF Doc. No. 18, and “Uttley Supp. Aff.”, NYSCEF Doc. Nos. 85-86).

competitors by building an enormous “trophy asset” to attract wealthy patients to the detriment of the community. As such, the zoning approvals are “a clear example of spot zoning, for they constitute a rezoning for the benefit of a single owner for a specific purpose only – spot zoning in its most maleficent aspect.” *Augenblick v. Town of Cortlandt*, 66 N.Y.2d 775, 777 (1985) (adopting dissenting opinion of Lazer, J.P., 104 A.D.2d 806, 815 (2d Dept. 1984)).

8. The full panoply of zoning entitlements that Northwell obtained from the City allows the enlargement of Lenox Hill Hospital by increasing the hospital’s floor area by 78%, resulting in a massive, bulky structure that is vastly out of scale with the Lenox Hill community. Indeed, the challenged zoning approvals bestowed upon Northwell, and no other property owner in the Lenox Hill neighborhood, the singular right to rebuild Lenox Hill Hospital with the combination of huge floor plates (over 30,000 square feet), a hospital building height (370 feet), and minimal setbacks that are simply not found on the Upper East Side of Manhattan, much less anywhere else in New York City in a densely-populated residential neighborhood such as Lenox Hill (*see, e.g.*, Janes Aff. ¶¶ 2, 17, NYSCEF Doc. No. 15, pp. 2, 9). No other building in the surrounding area includes this unique combination of height and bulk, that would result in the creation of a hulking edifice that would overwhelm surrounding structures in ways the City just hasn’t seen before (*id.*).

9. In the guise of providing improved health care, Northwell succeeded in misleading the City Planning Commission (“CPC”) and City Council and blinding them to the fact that the project they approved would allow transformation of what is now a community hospital of modest scale, nestled in the midst of a densely-populated and historic residential neighborhood, into an institutional monstrosity comparable in its massing to enormous commercial buildings in the

City's business districts such as the Empire State Building, Freedom Tower and One Vanderbilt (Janes Aff. ¶ 5, NYSCEF Doc. No. 15, pp. 3-4).

10. Although Northwell has asserted that the project's proposed bulk is consistent in scale with other institutions and medical facilities in the area (NYSCEF Doc. No. 49, pp. 79, 133), that is simply untrue. The only "institutions" in the area are houses of worship, schools, small businesses, restaurants and medical offices which bear absolutely no resemblance to the proposed project. Nor do any other area buildings even come close (Janes Aff. ¶¶ 6-7, NYSCEF Doc. No. 15, pp. 4-5). A building's impact on the surrounding neighborhood is a function of both the height of the building and the size of its floor plates, which together define the overall massing of the structure in relation to surrounding buildings. In the case of the Lenox Hill Hospital expansion mistakenly approved by the City, and contrary to Northwell's claims, the floor plates of the tallest buildings in the Lenox Hill neighborhood are dwarfed by the project's floor plates, which are more than six times the size of any 300-foot tower in the FEIS study area (*id.* ¶¶ 23-24, NYSCEF Doc. No. 15, pp. 11-12).

11. The CPC and City Council also were misled by Northwell's attempted justification that the scale of the proposed Lenox Hill Hospital rebuild is in line with other similarly-situated hospitals (NYSCEF Doc. No. 49, pp. 133, 150, 558, 561-62). Here, too, Northwell was disingenuous as can be easily demonstrated by applying one of the Zoning Resolution's basic tools for determining a proposed development's maximum allowable building floor area, which is known as Floor Area Ratio or FAR. It is the ratio of total building floor area to the area of its zoning lot. Each zoning district has a FAR which, when multiplied by the lot area of the zoning lot, produces the maximum amount of floor area allowable on that plot of land.

12. When compared to hospitals elsewhere on the Upper East Side of Manhattan as well as in other Manhattan neighborhoods, Lenox Hill Hospital's gross FAR exceeds any existing hospital building, including those within the larger, less-concentrated campuses of Mount Sinai Hospital, Columbia University Irving Medical Center, NYU/Bellevue/VA, Memorial Sloan Kettering/Hospital for Special Surgery/Presbyterian, and Metropolitan Hospital Center. An additional distinguishing factor, moreover, is the fact that unlike Lenox Hill Hospital, these other hospitals are all located on "superblocks," near shorelines, or adjacent to large parks, none on a small block in the center of a densely-populated residential neighborhood (Janes Aff. ¶ 26, NYSCEF Doc. No. 15, pp. 13).

13. The City's zoning approvals -- including amendments to the Zoning Resolution text and the Zoning Map as well as the grant of a zoning Special Permit and an Authorization -- were designed to accomplish Northwell's goal of "upzoning" (*i.e.*, dramatically increasing the site's development potential) by dramatically increasing the Lenox Hill Hospital FAR by nearly 67% -- from 7.5 to 12.5. First, the Zoning Map amendment changed the zoning districts in which the project site is located to increase the permitted community facility FAR to 10.0 (NYSCEF Doc. No. 73, p. 4). Next, the Zoning Resolution text amendment created a new Special Permit designed specifically for the Lenox Hill Hospital rebuild allowing Northwell to obtain an additional 2.5 FAR (beyond the previous increase from 7.5 to 10) (NYSCEF Doc. No. 73, pp. 6-12). The Special Permit was specifically drafted so that Northwell could obtain every available floor area bonus after rezoning the site to 10.0 FAR to achieve its goal of securing 12.5 FAR (NYSCEF Doc. No. 65, p. 6). It appears that no hospital other than Lenox Hill could satisfy the findings required by the new Special Permit text, and it clearly benefitted only Northwell (Janes Aff. ¶¶ 10-15, NYSCEF Doc. No. 15, pp. 6-7).

14. Equally egregious is the CPC's approval of the Lenox Hill Hospital project in violation of the strictures of SEQRA and CEQR, which, as referenced above, comprise the process by which New York City agencies are required to assess the potential impacts that discretionary actions like the zoning approvals granted for the Lenox Hill Hospital project may have upon the environment. Pursuant to SEQRA and CEQR, Northwell was required to furnish to the CPC an Environmental Impact Statement allowing the Commission to take a "hard look" at the potential impacts on various environmental areas of concern referenced above, including land use, zoning, socioeconomic conditions, community facilities, open space, shadows, historic and cultural resources, urban design, natural resources, hazardous materials, infrastructure, energy, transportation, air quality, noise, and public health. For the reasons set forth below, the FEIS prepared for the Lenox Hill Hospital project failed to meet the standards for an environmental review mandated by SEQRA and CEQR.

15. The violation of SEQRA and CEQR is most glaring in light of one of the additional but less well-publicized advantages obtained by Northwell as a result of the zoning approvals: a substantial increase in the maximum permitted FAR for *residential* development on this site. The challenged zoning approvals would actually allow Northwell to abandon the hospital project in favor of the residential development of the project site and erect – or sell to a developer to erect - an enormous residential tower at the midblock rising to a height of approximately 1,000 feet (Janes Aff. ¶ 27, NYSCEF Doc. No. 15, pp. 13-14 & Ex. B, NYSCEF Doc. No. 17). Although this alternative would provide Northwell with another extremely valuable potential use for the property, with the threat of significant environmental impacts to the detriment of the community, the FEIS required by SEQRA and CEQR failed to consider the potential use of the site.

16. As set forth below, the Lenox Hill Hospital rebuild approved by the City would forever change and adversely affect the historic Lenox Hill neighborhood's character and quality of life. Equally urgent and compelling, moreover, is the fact that by reason of not only the scale of the project but also Northwell's plans for its staged construction that was approved by the City, the neighborhood would be transformed into a construction zone for a period of nearly a decade, which could be even longer. The anticipated construction impacts over such a protracted period of time would impose significant additional burdens and risks on the community by transforming a quiet residential neighborhood into a hazardous construction zone. Significant adverse impacts would include noise at all hours, air pollution from dust and debris, loss of natural light, traffic gridlock, loss of parking, pedestrian hazards, limited access to public transportation, and loss of revenue for local businesses. As noted above, the neighborhood is home to many elderly residents and children, and houses numerous schools, whose young students will be severely impacted by the extended construction.

17. Significantly, Northwell failed to demonstrate a clear and consistent need for the project. According to Northwell, expansion is necessary to increase the total number of beds from 450 to 475 and replace the 139 double-bedded patient rooms with single-bedded rooms (NYSCEF Doc. No. 49, pp. 122, 127). Northwell's claim, that 475 single-bedded inpatient rooms are needed to meet future projected hospital admissions (*id.*), was flatly contradicted by publicly available data submitted during the zoning approval process, showing that Lenox Hill Hospital's actual utilization rates are declining and that its average daily census ("ADC") in 2024 was only 312 (Hyde Aff. ¶ 4, NYSCEF Doc. No. 81, pp. 2-3). Indeed, with an ADC of 312 and single-bedded rooms, all patients could be accommodated at 90% occupancy with 350 beds, not 475 (*id.* ¶¶ 6-7, NYSCEF Doc. No. 81, pp. 3-4). The historical and projected utilization rates clearly demonstrate

that there is no need to build a larger hospital. The notion that the community could be required to endure such a massive change to its community character, after being saddled with living in the mess of a neighborhood-wide construction zone for at least eight years just so that Northwell can add 25 beds it doesn't even need, lacks any rational basis.

18. To make matters worse, Northwell appears to have deliberately manipulated its reported vacancy rates to secure the City's approvals. One month after the CPC certified Northwell's application for public review, on March 10, 2025, an op-ed in the Daily News stated that "Lenox Hill Hospital already has more beds than it can fill. Last week, 43% of its beds were vacant..." (Uttley Supp. Aff. ¶ 2). Shortly thereafter, the hospital reduced the number of beds it was reporting to the New York State Department of Health ("DOH") from 455 to 344 resulting in a significantly lower vacancy rate. *Id.* ¶¶ 3, 5. At the CPC's public hearing on May 21, 2025, Dr. Daniel Baker, the President of Lenox Hill Hospital, stated that the reduction in the number of reported beds was attributable to an alleged "denominator error" but failed to explain why 111 beds were no longer being counted. *Id.* ¶¶ 4- 5. Most significantly, however, after the City approved the applications, Northwell once again reversed course and reverted to reporting a larger number of beds resulting in a higher vacancy rate. *Id.* ¶ 6. In short, the hospital misrepresented its vacancy rates and misled the City by creating a false sense of "need" for additional beds when, in fact, it already has far more beds than it can fill.

19. In addition, the Upper East Side within which the Lenox Hill neighborhood is located already is oversaturated with hospitals (Uttley Aff. ¶ 5, NYSCEF Doc. No. 18, pp. 2-3). Indeed, the area has the highest concentration of inpatient hospital beds of any neighborhood in the City, already giving the residents of this neighborhood unparalleled access to health care services. At the same time, other Manhattan neighborhoods including the Lower East Side, which

recently lost its long-time community hospital, Beth Israel Medical Center, as well as communities in the boroughs of Brooklyn, Queens, Staten Island, and The Bronx, are hospital “deserts” in desperate need of beds. While the Upper East Side’s concentration of hospital beds has created a world-class health care district, it has resulted in vast geographic health care inequities in other areas of the City, which would only be exacerbated by the approval of the Lenox Hill Hospital project (*id.* ¶¶ 1, 11, NYSCEF Doc. No. 18, pp. 1, 7).

20. The patient community served by Lenox Hill Hospital already skews to New York’s wealthiest residents (Uttley Aff. ¶ 9, NYSCEF Doc. No. 18, p. 4). The proposed expansion would intensify that disparity by catering only to the elite with private single-bedded rooms -- *which are actually larger than the existing double-bedded rooms* -- and luxury birthing centers (*id.*). Today, Lenox Hill Hospital has among the highest prices for hospital care in Manhattan, charging commercial health insurers an average of 335% of what it receives from Medicare for the same services (*id.* ¶ 7, NYSCEF Doc. No. 18, p. 3). The hospital also lags behind borough and city-wide hospital percentages for service to low-income patients insured by Medicaid, with Medicaid discharges at 18% compared with 29% at Manhattan hospitals generally and 39% across all the City’s hospitals (*id.* ¶ 9, NYSCEF Doc. No. 18, p. 4). In a recent survey, the nationally-respected Lown Institute gave Lenox Hill Hospital a D grade for inclusivity – ranking 119th out of 120 New York hospitals (*id.*).

21. Petitioners understand that Northwell’s estimated project cost for the Lenox Hill Hospital rebuild approved by the City will be a minimum of \$2.5 billion, which would be funded largely through public debt financing (Hyde Aff. ¶¶ 9-12, NYSCEF Doc. No. 81, p. 4-5). As a result, Northwell would have to bear substantial annual principal and interest payments (*id.* Ex. C, NYSCEF Doc. No. 81). Since Northwell’s only sources of revenue and cash flow are payments

from patients and insurers, the Lenox Hill Hospital project would inevitably increase prices and health insurance premiums while decreasing accessibility for uninsured and underinsured New Yorkers, which is of especially grave concern to the elderly on fixed-incomes and other lower-income residents of the Lenox Hill neighborhood (*id.* ¶ 12, NYSCEF Doc. No. 81, p. 5).

22. The City's zoning approvals granted Northwell a huge 78% increase of 600,000 gross square feet (equivalent to 5.0 FAR) (NYSCEF Doc. No. 73) to accommodate only a fractional increase in scope of services: 25 additional beds; five additional operating rooms; and 14 additional emergency treatment stations (NYSCEF Doc. No. 49 at 119-122). In short, Northwell is not motivated by what is required by Lenox Hill Hospital to serve the community's health care needs. Rather, the proposed expansion is driven by what Northwell wants: to transform the hospital into a "trophy asset" as a marketing strategy to attract additional wealthy patients who can afford to pay for oversized, single-bedded rooms not covered by insurance.

23. It is clear that Northwell's project is based upon corporate egos, not medical needs. After many years as a Long Island-based healthcare provider, Northwell clearly seeks the prestige of a large – indeed massive -- Manhattan anchor. In March 2019, Northwell's then-CEO, Michael Dowling, told *The Wall Street Journal* "You have to have such a facility in Manhattan to be continuously relevant in New York. I can build the greatest thing in the world in Queens or in Long Island, which we've done. But you still have to have a major presence in Manhattan".

24. The project is intended to transform what had historically been a community hospital into a "vanity project" and "billboard advertisement" to attract wealthy patients. This institutional overreach has little or nothing to do with satisfying unmet public health needs on the Upper East Side or making hospital services more accessible to the public. Instead, the project is designed simply to fulfill Northwell's ambition to outpace on a grand scale its hospital competitors,

including New York Presbyterian/Weill Cornell Medical Center, Mount Sinai and Memorial Sloan Kettering.

25. Northwell has publicly stated its true commercial goal. In its 2024 annual financial disclosures, Northwell named “market share growth” as a top management focus and noted that it was investing in strategic capital projects and technology to “support volume growth and maintain a competitive advantage in patient experience and operational processes”. By building larger, single-bedded rooms at Lenox Hill Hospital, Northwell hopes to obtain greater leverage in contract negotiations with health insurers over higher reimbursement rates.

26. A telling indictment of the project was delivered by Jordan Saunders, a longtime neighborhood resident and also a longtime Trustee of Northwell who is currently one of only 11 of its Life Trustees.²

27. Prior to the CPC’s public hearing in May, 2025, Ms. Saunders submitted the following written testimony in opposition to the project:

I was a longtime Trustee of Northwell Health and am one of only 11 of its Life Trustees, and I strongly oppose Northwell’s plans for expanding Lenox Hill Hospital.

For more than 50 years I lived in the neighborhood and currently own property at 130 East 75th St and 812 Park Avenue. Lenox Hill was our community hospital and has been important in my family’s history. My long-standing leadership of and devotion to this hospital must first be noted to fully appreciate that I do not make these comments lightly.

Lenox Hill’s proposed expansion plans are fiscally irresponsible, will cause permanent harm to this iconic neighborhood, are violative of zoning laws, and will have a detrimental impact on the environment. In short – these plans must be halted.

² Upon information and belief, a “Life Trustee” is an honorary title bestowed by Northwell upon long-serving board members in recognition of their exceptional dedication and past service to the organization. Life Trustees continue to act as high-level representatives for Northwell in the community helping to build partnerships and advocate for the health system’s mission.

Borrowing more than a billion dollars and investing more than \$1.5 billion on the Upper East Side of Manhattan is reckless overreach which raises serious questions about the ability of Northwell to service its debt and will be an onerous burden on patients, insurers, and the City. The staggering cost will make it impossible to deliver adequate return on investment. It is a poor and imprudent value proposition.

The Hospital proposes doubling in size to create the type of footprint that Level 1 Trauma Centers and academic health centers have, but Lenox Hill Hospital is neither. It seeks to add operating rooms despite empirical evidence that fewer operating rooms are required and has wildly underestimated the cost per square foot of its nearly 640,000 new square feet!

Compounding the bad investment decision is the chaos this project would leave in its wake.

Northwell is singularly focused on building big and offers no environmental mitigation measures to the inevitable damage it will do. No green roof to ameliorate the gasses the building will generate. Then there are the more common, and equally legitimate concerns of neighborhood residents – blocked sunlight, impeded viewsheds and material diminishment of residents' use and enjoyment of their properties. Many years of construction-related detours, and traffic jams. Construction will bring attendant noise pollution day and night, and air polluting particles will make even breathing difficult. A huge influx of people and garbage mean more garbage trucks, more sirens and permanent traffic issues – round the clock neighborhood disturbance.

Worst by far is the irreparable harm that the proposed expansion will do to the character of this iconic neighborhood. It will change the core of this historic residential New York Community into little more than a behemoth sterile medical complex with some adjacent housing.

Northwell's initial modernization and renewal plan, which may have been appropriate, is gone replaced by expansion plans that cut against the best interests of both Northwell and the Lenox Hill neighborhood. They are plans that must be stopped. (NYSCEF Doc. No. 75, p. 164)

28. It is clear that Northwell's private development plans directly violate the City's fundamental zoning and land use law and policies. In approving those plans, the City engaged in blatant spot zoning to advance the special interests of a powerful and politically-connected

property owner at the expense of the general public. The FEIS fell far short. For all of the reasons set forth above, the zoning approvals should be vacated and annulled in their entirety.

THE PARTIES

29. Petitioner CPOLHN is a New York not-for-profit corporation with Internal Revenue Code Section 501(c)(3) tax exempt status, which is financed solely by contributions from member buildings, individual residents and other supporters. CPOLHN was founded in 2019 by neighbors of Lenox Hill Hospital to protect and promote the unique residential nature and historical character of the Lenox Hill neighborhood on the Upper East Side of Manhattan. CPOLHN seeks to ensure that proposed development in the Lenox Hill neighborhood is planned in a harmonious way both respecting the area's special character and safeguarding the health, safety, and well-being of the community. In furtherance of its purpose and mission, CPOLHN has opposed Northwell's planned expansion of Lenox Hill Hospital that is at issue in this proceeding. CPOLHN's members and supporters will be uniquely and adversely affected by the proposed expansion. Ten of CPOLHN's eleven member buildings are within 500 feet of Lenox Hill Hospital. Unlike the general public, they will be subjected to years of disruptive construction activity—anticipated to last eight years or more—including sustained noise, pollutants, and congestion. The project is also expected to increase traffic, create hazardous pedestrian conditions, and permanently alter the neighborhood's character and quality of life. The construction of a massive hospital building, out of scale with the surrounding residential community, will further diminish access to air and light, cast glare and extended shadows, and introduce intrusive artificial lighting onto neighboring properties..

30. Petitioner CIVITAS CITIZENS INC. ("CIVITAS") is a New York not-for-profit corporation which represents the interests of New York City citizens dedicated to enhancing

neighborhood quality of life through a focus on land use, urban planning, and the built environment. Active in the Upper East Side and El Barrio/East Harlem communities since 1981, CIVITAS advocates for sound, context-sensitive policies that support environmentally conscientious development, contextual neighborhoods, vibrant street-level retail, uncluttered sidewalks, and efficient public transit access. Its approach to urban planning emphasizes developments that are contextual and that allow light and air to reach surrounding buildings and the public realm below. It works to promote, preserve, and protect lively and livable residential neighborhoods by commissioning studies, issuing reports, and elevating discourse on critical community and land use issues. Its advocacy includes commenting and/or testifying on land use projects, zoning variances, public access to the waterfront, creation of an East River ecological edge, traffic congestion, and historic preservation. CIVITAS has actively and vocally opposed the scope and scale of the planned Lenox Hill Hospital expansion before Community Board 8, the CPC and the City Council. The members of CIVITAS will be uniquely and adversely affected by the proposed expansion. Unlike the general public, they will be subjected to years of disruptive construction activity—anticipated to last eight years or more—including sustained noise, pollutants, and congestion. The project is also expected to increase traffic, create hazardous pedestrian conditions, and permanently alter the neighborhood’s character and quality of life. The construction of a massive hospital building, out of scale with the surrounding residential community, will further diminish access to air and light, cast glare and extended shadows, and introduce intrusive artificial lighting onto neighboring properties.

31. Petitioner 145 EAST 76TH STREET CORPORATION is a cooperative corporation representing residents living at 145 East 76th Steet, New York, New York (“145 East 76th”). 145 East 76th is comprised of 20 units. 145 East 76th occupies the northeast corner of the

intersection of Lexington Avenue and East 76th Street, directly across the street from Lenox Hill Hospital and the planned main entrance of the proposed expanded hospital. The residents of 145 East 76th will be uniquely and adversely affected by the proposed expansion. Unlike the general public, they will be subjected to years of disruptive construction activity—anticipated to last eight years or more—including sustained noise, pollutants, and congestion. The project is also expected to increase traffic, create hazardous pedestrian conditions, and permanently alter the neighborhood’s character and quality of life. The construction of a massive hospital building, out of scale with the surrounding residential community, will further diminish access to air and light, cast glare and extended shadows, and introduce intrusive artificial lighting onto neighboring properties.

32. Petitioner EAST 76TH REALTY CO., INC. is a cooperative corporation representing residents living at 136 East 76th Street, New York, New York (“136 East 76th”). 136 East 76th occupies the southwest corner of the intersection of Lexington Avenue and East 76th Street. Its main entrance is directly opposite Lenox Hill Hospital on 76th Street. The building has 16 floors, approximately 80 units, and an internal residential garage. It is a family-oriented building with approximately 150 residents, ranging in age from newborn to over 90 years old. The residents of 136 East 76th will be uniquely and adversely affected by the proposed expansion. Unlike the general public, they will be subjected to years of disruptive construction activity—anticipated to last eight years or more—including sustained noise, pollutants, and congestion. The project is also expected to increase traffic, create hazardous pedestrian conditions, and permanently alter the neighborhood’s character and quality of life. The construction of a massive hospital building, out of scale with the surrounding residential community, will further diminish

access to air and light, cast glare and extended shadows, and introduce intrusive artificial lighting onto neighboring properties.

33. Petitioner 829 PARK AVENUE CORPORATION is a cooperative corporation representing residents living at 829 Park Avenue, New York, New York (“829 Park”). 829 Park is comprised of 48 apartments and is home to more than 75 residents. 829 Park occupies the southeast corner of the intersection of Park Avenue and East 76th Street, directly across the street from Lenox Hill Hospital, and the northern wall of the building faces Lenox Hill Hospital. The residents of 829 Park will be uniquely and adversely affected by the proposed expansion. Unlike the general public, they will be subjected to years of disruptive construction activity—anticipated to last eight years or more—including sustained noise, pollutants, and congestion. The project is also expected to increase traffic, create hazardous pedestrian conditions, and permanently alter the neighborhood’s character and quality of life. The construction of a massive hospital building, out of scale with the surrounding residential community, will further diminish access to air and light, cast glare and extended shadows, and introduce intrusive artificial lighting onto neighboring properties.

34. Petitioner PARK AND 76TH ST. INC. is a cooperative corporation representing residents living at both 830 Park Avenue, New York, New York (“830 Park”) and 840 Park Avenue, New York, New York (“840 Park” and, collectively with 830 Park, “830-840 Park”). 840 Park occupies the northwest corner of the intersection of Park Avenue and East 76th Street, directly across the street from Lenox Hill Hospital, and 830 Park occupies the southwest corner of that intersection. The residents of 830-840 Park, which include a number of families with young children, will be uniquely and adversely affected by the proposed expansion. Unlike the general public, they will be subjected to years of disruptive construction activity—anticipated to last eight

years or more—including sustained noise, pollutants, and congestion. The project is also expected to increase traffic, create hazardous pedestrian conditions, and permanently alter the neighborhood’s character and quality of life. The construction of a massive hospital building, out of scale with the surrounding residential community, will further diminish access to air and light, cast glare and extended shadows, and introduce intrusive artificial lighting onto neighboring properties.

35. Petitioner 885 PARK AVENUE CORPORATION is a cooperative corporation representing residents living at 885 Park Avenue, New York, New York (“885 Park”). 885 Park occupies the northeast corner of the intersection of Park Avenue and East 78th Street, one block north of Lenox Hill Hospital. 885 Park is a 16-floor building comprised of 41 residences and 4 doctor’s offices. The residents of 885 Park represent a diverse cross-section of New Yorkers, ranging from 31 young families with a total of 37 children to 22 residents over the age of 70 (many of whom have limited mobility). 885 Park’s residents will be uniquely and adversely affected by the proposed expansion. Unlike the general public, they will be subjected to years of disruptive construction activity—anticipated to last eight years or more—including sustained noise, pollutants, and congestion. The project is also expected to increase traffic, create hazardous pedestrian conditions, and permanently alter the neighborhood’s character and quality of life. The construction of a massive hospital building, out of scale with the surrounding residential community, will further diminish access to air and light, cast glare and extended shadows, and introduce intrusive artificial lighting onto neighboring properties.

36. Petitioner 863 PARK AVENUE, INC. is a cooperative corporation representing residents living at 863 Park Avenue, New York, New York (“863 Park”). 863 Park occupies the northeast corner of the intersection of Park Avenue and East 77th Street, across the street from

Lenox Hill Hospital. 863 Park is a 13-story building comprised of 23 units housing approximately 75 residents. The residents of 863 Park will be uniquely and adversely affected by the proposed expansion. Unlike the general public, they will be subjected to years of disruptive construction activity—anticipated to last eight years or more—including sustained noise, pollutants, and congestion. The project is also expected to increase traffic, create hazardous pedestrian conditions, and permanently alter the neighborhood’s character and quality of life. The construction of a massive hospital building, out of scale with the surrounding residential community, will further diminish access to air and light, cast glare and extended shadows, and introduce intrusive artificial lighting onto neighboring properties.

37. Petitioner PARK AVENUE AND SEVENTY-SEVENTH STREET CORPORATION is a cooperative corporation representing residents living at 850 Park Avenue, New York, New York (“850 Park”). 850 Park occupies the southwest corner of the intersection of Park Avenue and East 77th Street and is directly across the street from Lenox Hill Hospital. The residents of 850 Park will be uniquely and adversely affected by the proposed expansion. Unlike the general public, they will be subjected to years of disruptive construction activity—anticipated to last eight years or more—including sustained noise, pollutants, and congestion. The project is also expected to increase traffic, create hazardous pedestrian conditions, and permanently alter the neighborhood’s character and quality of life. The construction of a massive hospital building, out of scale with the surrounding residential community, will further diminish access to air and light, cast glare and extended shadows, and introduce intrusive artificial lighting onto neighboring properties.

38. Petitioner 875 PARK AVENUE CORPORATION is a cooperative corporation representing residents living at 875 Park Avenue, New York, New York (“875 Park”). 875 Park

is comprised of 49 units and is home to over 100 residents, including approximately 20 children, at least 22 residents over the age of 70 and several other residents with limited mobility. 875 Park occupies the southeast corner of the intersection of Park Avenue and East 78th Street and is a half-block north of Lenox Hill Hospital. The residents of 875 will be uniquely and adversely affected by the proposed expansion. Unlike the general public, they will be subjected to years of disruptive construction activity—anticipated to last eight years or more—including sustained noise, pollutants, and congestion. The project is also expected to increase traffic, create hazardous pedestrian conditions, and permanently alter the neighborhood’s character and quality of life. The construction of a massive hospital building, out of scale with the surrounding residential community, will further diminish access to air and light, cast glare and extended shadows, and introduce intrusive artificial lighting onto neighboring properties.

39. Petitioner 1065 LEXINGTON AVENUE CORPORATION is a cooperative corporation representing residents living at 1065 Lexington Avenue, New York, New York (“1065 Lexington”). 1065 Lexington is comprised of 26 units and is home to approximately 64 residents. 1065 Lexington is between East 76th Street and East 75th Street, approximately a half-block south of Lenox Hill Hospital. The residents of 1065 Lexington will be uniquely and adversely affected by the proposed expansion. Unlike the general public, they will be subjected to years of disruptive construction activity—anticipated to last eight years or more—including sustained noise, pollutants, and congestion. The project is also expected to increase traffic, create hazardous pedestrian conditions, and permanently alter the neighborhood’s character and quality of life. The construction of a massive hospital building, out of scale with the surrounding residential community, will further diminish access to air and light, cast glare and extended shadows, and introduce intrusive artificial lighting onto neighboring properties.

40. Petitioner ANDREW PEARCE (“Pearce”) is an individual residing at 155 East 76th Street, New York, New York (“155 East 76th Street”) since 2023 with his partner and her now-adult son. 155 East 76th Street is a half-block from the southeast corner of Lenox Hill Hospital. Pearce and his household will be adversely affected will be uniquely and adversely affected by the proposed expansion. Unlike the general public, they will be subjected to years of disruptive construction activity—anticipated to last eight years or more—including sustained noise, pollutants, and congestion. The project is also expected to increase traffic, create hazardous pedestrian conditions, and permanently alter the neighborhood’s character and quality of life. The construction of a massive hospital building, out of scale with the surrounding residential community, will further diminish access to air and light, cast glare and extended shadows, and introduce intrusive artificial lighting onto neighboring properties.

41. Petitioner BARBARA MINTZ (“Mintz”) is an individual residing at 136 East 76th Street, New York, New York (“136 East 76th Street”) with her husband. Mintz has owned her apartment at 136 East 76th Street since 1981. 136 East 76th Street occupies the southwest corner of the intersection of East 76th Street and Lexington Avenue, directly across the street from Lenox Hill Hospital. Mintz will be uniquely and adversely affected by the proposed expansion. Unlike the general public, she will be subjected to years of disruptive construction activity—anticipated to last eight years or more—including sustained noise, pollutants, and congestion. The project is also expected to increase traffic, create hazardous pedestrian conditions, and permanently alter the neighborhood’s character and quality of life. The construction of a massive hospital building, out of scale with the surrounding residential community, will further diminish access to air and light, cast glare and extended shadows, and introduce intrusive artificial lighting onto neighboring properties.

42. Petitioner ELIZABETH HERKELRATH and Petitioner WILLIAM HERKELRATH (the “Herkelraths”) are spouses residing at 176 East 77th Street, New York, New York (“176 East 77th Street”) since 2021. 176 East 77th Street is less than one block east of Lenox Hill Hospital. The Herkelraths will be uniquely and adversely affected by the proposed expansion. Unlike the general public, they will be subjected to years of disruptive construction activity—anticipated to last eight years or more—including sustained noise, pollutants, and congestion. The project is also expected to increase traffic, create hazardous pedestrian conditions, and permanently alter the neighborhood’s character and quality of life. The construction of a massive hospital building, out of scale with the surrounding residential community, will further diminish access to air and light, cast glare and extended shadows, and introduce intrusive artificial lighting onto neighboring properties.

43. Petitioner HILARY CECIL-JORDAN (“Cecil-Jordan”) is widow residing at 55 East 75th Street, New York, New York (“55 East 55th Street”). Cecil-Jordan has lived at 55 East 75th Street for 25 years and is a lifelong resident of the Upper East Side. 55 East 75th Street is just west of the intersection of East 75th Street and Park Avenue, one block south of Lenox Hill Hospital. It is a 5-story single family house. Cecil-Jordan will be uniquely and adversely affected by the proposed expansion. Unlike the general public, she will be subjected to years of disruptive construction activity—anticipated to last eight years or more—including sustained noise, pollutants, and congestion. The project is also expected to increase traffic, create hazardous pedestrian conditions, and permanently alter the neighborhood’s character and quality of life. The construction of a massive hospital building, out of scale with the surrounding residential community, will further diminish access to air and light, cast glare and extended shadows, and introduce intrusive artificial lighting onto neighboring properties.

44. Petitioner LENORE PASSAVANTI (“Passavanti”) is an individual who has resided at 215 East 79th Street, New York, New York, approximately a quarter mile from Lenox Hill Hospital, for the past 21 years. Passavanti will be uniquely and adversely affected by the proposed expansion. Unlike the general public, she will be subjected to years of disruptive construction activity—anticipated to last eight years or more—including sustained noise, pollutants, and congestion. The project is also expected to increase traffic, create hazardous pedestrian conditions, and permanently alter the neighborhood’s character and quality of life. The construction of a massive hospital building, out of scale with the surrounding residential community, will further diminish access to air and light, cast glare and extended shadows, and introduce intrusive artificial lighting onto neighboring properties.

45. Petitioner PIERRE VAN BOCKSTAELE (“Van Bockstaele”) is an individual residing at 176 East 77th Street, New York, New York (“176 East 77th Street”) with his wife and two adult sons. 176 East 77th Street is one block directly east of Lenox Hill Hospital and Van Bockstaele’s unit faces Lenox Hill Hospital. Van Bockstaele grew up in 176 East 77th Street and has lived in the apartment for most of his life, purchasing the apartment from his late mother’s estate in 2021. Van Bockstaele and his household will be uniquely and adversely affected by the proposed expansion. Unlike the general public, they will be subjected to years of disruptive construction activity—anticipated to last eight years or more—including sustained noise, pollutants, and congestion. The project is also expected to increase traffic, create hazardous pedestrian conditions, and permanently alter the neighborhood’s character and quality of life. The construction of a massive hospital building, out of scale with the surrounding residential community, will further diminish access to air and light, cast glare and extended shadows, and introduce intrusive artificial lighting onto neighboring properties.

46. Petitioner WENDY LEHMAN LASH (“Lehman Lash”) is an individual residing at 151 East 79th Street, New York, New York (“151 East 79th Street”) with her husband. Lehman Lash has lived at 151 East 79th Street for 52 years and is a lifelong resident of the Upper East Side. 151 East 79th Street occupies the northwest corner of the intersection of East 79th Street and Lexington Avenue, two blocks north of Lenox Hill Hospital. Lehman Lash will be uniquely and adversely affected by the proposed expansion. Unlike the general public, she will be subjected to years of disruptive construction activity—anticipated to last eight years or more—including sustained noise, pollutants, and congestion. The project is also expected to increase traffic, create hazardous pedestrian conditions, and permanently alter the neighborhood’s character and quality of life. The construction of a massive hospital building, out of scale with the surrounding residential community, will further diminish access to air and light, cast glare and extended shadows, and introduce intrusive artificial lighting onto neighboring properties.

47. Respondent The City of New York is a municipal corporation duly organized and existing under the laws of the State of New York and, as is relevant to the zoning approvals complained of herein, acted by and through Respondent NEW YORK CITY COUNCIL (“City Council”) and Respondent NEW YORK CITY PLANNING COMMISSION CPC, previously defined).

48. Respondent City Council is the legislative body of The City of New York established and duly existing pursuant to Chapter 2 of the New York City Charter (“Charter”) and vested with the ultimate authority to approve, modify or disapprove the actions of the CPC to change the designation of zoning districts under the Zoning Resolution, change the text of the Zoning Resolution, and grant Special Permits within the jurisdiction of the CPC under the Zoning Resolution.

49. Respondent City Planning Commission (CPC, previously defined) is an instrumentality of The City of New York established and duly existing pursuant to Chapter 8 of the Charter, and is responsible for changing the designation of zoning districts under the Zoning Resolution, changing the text of the Zoning Resolution, and granting Special Permits and other zoning approvals under the Zoning Resolution, all of which are subject to the ultimate approval, modification or disapproval by the City Council.

50. Respondent Lenox Hill Hospital is a 450-bed hospital located in the heart of the Lenox Hill neighborhood. The hospital has been owned by Northwell since 2010.

51. Respondent Northwell is New York State's largest healthcare provider and private employer. Northwell is comprised of 28 hospitals and over 1,000 ambulatory care facilities across Long Island, the five boroughs of New York City, Westchester, the Hudson Valley and Western Connecticut. Its flagship hospitals are North Shore University Hospital and Long Island Jewish Medical Center, and its headquarters are located in New Hyde Park, Nassau County.

JURISDICTION AND VENUE

52. This Court has jurisdiction over this matter pursuant to Articles 30 and 78 of the New York Civil Practice Law and Rules ("CPLR"). The actions of Respondents of which Petitioners complain herein are final and cannot be adequately reviewed by another court, entity, or officer.

53. Pursuant to CPLR §§ 506(b) and 7804(b), venue is proper in New York County as the county within the judicial district where Respondents made the determinations complained of, the proceedings were brought and the material events otherwise took place. In addition, pursuant to CPLR § 503(a), venue is proper in New York County where Petitioners reside and/or have their principal places of business.

BACKGROUND AND FACTS

A. Background: New York City Land Use Regulation

54. The use and development of land in New York City are governed by the Zoning Resolution of the City of New York (“Zoning Resolution” or “ZR”), which prescribes the allowable size, use, and density of buildings throughout the city. The Zoning Resolution provides for an orderly pattern of development across the City’s neighborhoods by identifying what is permissible on a piece of property. The Zoning Maps, which are part of the Zoning Resolution, divide the city into a complex variety of districts, *i.e.*, “zones,” which determine how the property can be used and developed.

55. The Zoning Resolution establishes three basic zoning district categories: Residence (“R”), Commercial (“C”) and Manufacturing (“M”). These three district categories are further divided into a range of districts within each category, denoted by different number and letter combinations (*i.e.*, R5, R7A, C4-5X, C8-2, M1-1, M2-4, etc.). In general, the higher the number immediately following the first letter, the higher the density or intensity of land use is permitted.

56. In addition to the Zoning Maps, the Zoning Resolution also contains the zoning text, which describes the specific zoning regulations that apply within each zoning district delineated on the zoning maps. The zoning text primarily divides the regulations into use regulations, bulk regulations, parking regulations and streetscape regulations. Use regulations determine the range of activities permitted on a given parcel of property. Bulk regulations govern the size and shape of a development. Parking regulations stipulate the minimum and maximum parking spaces required by a given development. Streetscape regulations govern the relationship between a property and the adjoining public street.

57. The bulk regulations are further divided among several categories including floor area as determined by the allowable Floor Area Ratio (“FAR”) on a given parcel, height and setback regulations, lot coverage regulations, density regulations (which determine the maximum number of dwelling units permitted on a given parcel), and yard regulations. Bulk regulations often change based on the uses that occupy the building. For example, in Commercial Districts which typically permit residential, community facility and commercial uses, different rules apply depending on whether a building contains only commercial and/or community facility uses, only residential uses or a mixture of uses.

58. Amendments to the Zoning Resolution typically take the form of either a Zoning Map Amendment or a Zoning Text Amendment, which require the approval of the CPC and City Council.

59. The Zoning Resolution authorizes the CPC to grant zoning Special Permits in enumerated Zoning Districts for specified uses whose location or control requires special consideration or major planning factors. Special Permits may also be granted by the CPC for specified modifications of the use or bulk regulations of the Zoning Resolution, provided that in each specific case as a condition precedent for the grant of the Special Permit certain enumerated findings as set forth in the Zoning Resolution must be satisfied.

60. The CPC also is empowered to grant zoning Authorizations, which are discretionary actions by which the CPC may modify certain specific zoning requirements for a property if certain findings in the Zoning Resolution have been met.

61. Zoning Map Amendments and Zoning Text Amendments, whether city-wide or area-specific, adjust the Zoning Resolution or Zoning Map to accommodate developments that align with city planning goals. Amendments to the Zoning Resolution itself are text-based while

amendments to the Zoning Map change the zoning designation of that parcel or parcels sought to be rezoned. The City itself, or any private party, may propose a Zoning Map or Zoning Text Amendment, which must go through a public review and approval process known as the Uniform Land Use Review Procedure (“ULURP”), which culminates in the respective decisions by the CPC and City Council to approve, approve with modifications, or deny the proposed actions.

B. Background: New York City Uniform Land Use Review Procedure

62. Sections 197-c and 197-d of the New York City Charter (“Charter”) dictate the public review process required for the discretionary land use applications in New York City subject to ULURP. Charter Sections 200 and 201 further prescribe the procedures for changes to the Zoning Resolution text, changes to zoning designation (*i.e.*, Zoning Map amendments), and applications for zoning Special Permits are effectuated.

63. The New York City Department of City Planning (“DCP”) manages an applicant’s initial submission of a land use application that is subject to public review under ULURP, and DCP reviews the application and determines if it is complete and ready to be certified for public review under ULURP. However, the CPC officially makes the decision to certify the application.

64. Once the CPC certifies a land use application as complete, the ULURP process begins, spanning a period of seven months pursuant to the procedure delineated in Sections 197-c and 197-d of the Charter. The timeline in ULURP includes strict deadlines to ensure a consistent, transparent and predictable process.

65. The first step in the ULURP process is Community Board Review. New York City has 59 community districts, which are geographical areas that are mandated to review and monitor quality-of-life issues within their neighborhoods pursuant to the provisions of Charter Chapter 69. The intent of Chapter 69 is to encourage and facilitate coterminous community districts to be used

for the planning of community life within the city, the participation of citizens in city government within their communities, and the efficient and effective organization of agencies that deliver municipal services in local communities and boroughs. The Lenox Hill neighborhood is located in Manhattan Community District 8.

66. Pursuant to the provisions of Charter Chapter 70, a Community Board is established for each of the 59 community districts. Each Community Board has up to 50 members who are volunteers appointed by the Borough President of the borough in which the community district is located. Community board members make recommendations on a variety of local issues like land use, zoning, city services, and the budget. While they cannot issue direct orders, they play a crucial role in advocating for community needs and influencing city decisions.

67. The certified land use application is sent to the Community Board representing the Community District in which the relevant property is located. As set forth more fully below, the Lenox Hill Hospital zoning applications were subject to review during the ULURP process by Manhattan Community Board 8. Community Boards have 60 days after certification within which to hold a public hearing and vote to recommend approval, modification, or disapproval of the land use application. The Community Board's recommendation is advisory. If a Community Board votes to recommend disapproval or fails to act within its time limit or waives its right to act, the application proceeds to the next level of review, which is the Borough President in whose borough the property is located.

68. Within thirty days of receipt of a Community Board recommendation, or if the Community Board failed to act, then within 30 days after expiration of the Community Board's 60-day review period, the Borough President is required to submit a written recommendation to

the CPC.³ If the Borough President fails to act within the time limit, then the application proceeds to the CPC. Like the recommendation of the Community Board, the Borough President's recommendation is advisory.

69. The CPC within a period of 60 days of receipt of the Borough President's recommendation, or upon the expiration of the Borough President's review period if the Borough President fails to act, is required to hold a public hearing and approve, approve with modifications or disapprove the application. Adoption of a CPC report that approves, modifies or disapproves an application requires an affirmative vote of seven members of the CPC.

70. The CPC's vote is binding, subject to the approval, modification, or disapproval of the City Council. If the CPC votes to disapprove the project, ULURP ends. But if at least seven of the CPC's thirteen members vote to approve or approve the application with modifications, then it moves to the City Council for the ULURP process.

71. After the CPC approves a ULURP application, it proceeds to the City Council for review. The Council must hold a public hearing and vote within 50 days of the CPC's approval.

72. The Council during its review period may vote to approve, approve with modifications, or disapprove such decision of the CPC. Prior to approving a decision of the CPC with modifications, the Council is required to file the text of any proposed modifications with the CPC. Within fifteen days of such filing, the CPC is required to file with the Council a written statement indicating whether the proposed modifications are of such significance that additional

³ If an application involves land in more than one community district, the Borough Board may (within the Borough President's review period) also review and submit a recommendation to the CPC. A Borough Board is a governing body in each of New York City's five boroughs, established pursuant to the provisions of Section 85 of Chapter 4 of the Charter, that is comprised of the Borough President, all of that borough's City Council members, and the chairpersons of the borough's Community Boards.

review of environmental issues is required. The CPC's determination as to whether additional review of environmental issues would be required turns on whether the proposed modification is within the scope of the environmental review conducted for the land use action(s) approved by the CPC and no further review of environmental issues will be necessary. If the proposed modification is determined to be within the scope and no additional environmental review would be required, then the CPC will advise the City Council accordingly and may include in its statement an advisory recommendation concerning the proposed modifications, together with any proposed amendments to the proposed modifications. The City Council may thereafter approve such proposed modifications, with or without the amendments proposed by the CPC.

73. Thereafter, the Mayor of the City of New York may veto such approval within five days after approval by the City Council. If the Mayor does not veto the City Council vote to approve the application, then the City Council's action is final. If the Mayor does veto the approval, the City Council by a two-thirds vote may override the veto within ten days. The land use actions subject to review under ULURP become effective immediately upon the conclusion of the ULURP process.

C. Facts: The Lenox Hill Neighborhood

74. Lenox Hill is a bustling and vibrant residential neighborhood nestled in the midst of the Upper East Side of Manhattan with a rich history dating back to the mid-19th century. The neighborhood sits largely within the Upper East Side Historic District designated by the New York City Landmarks Preservation Commission and the City Council, and its properties fronting on Park Avenue and Fifth Avenue are within the Special Park Improvement District.

75. The boundaries of the Lenox Hill neighborhood have expanded over time with the original Lenox Hill comprised of farmland that spanned the present-day East 68th Street to East

74th Street. The *Encyclopedia of New York City* defines the neighborhood as the area between East 60th Street and East 77th Street, from Fifth Avenue on the west to Lexington Avenue on the east. However, today most residents see the modern boundary slightly differently as the Lenox Hill post office and the neighborhood's service-oriented retail shops are located east of Lexington Avenue.

76. The neighborhood is one of the most densely-populated residential neighborhoods in the City. Its iconic, tree-lined streets are clean, quiet and peaceful, filled with schools, houses of worship, restaurants and small businesses. The neighborhood has a mix of historic buildings, modern developments and cultural institutions.

D. Facts: Lenox Hill Hospital and Northwell Health

77. Lenox Hill Hospital has occupied its current location at 100 East 77th Street since about 1869 when it was known as the German Hospital and Dispensary. The hospital consists of ten buildings located on a 1.9-acre city block bounded on the north and south by East 77th and 76th Streets and on the west and east by Park Avenue and Lexington Avenue. Although the hospital's site is not a designated landmark, it contains several historic buildings designed by notable architects, York & Sawyer, which would be demolished if the hospital's development plans are effectuated.

78. Northwell was founded in 1997 with the merger of North Shore Health Systems Inc. (which was itself the product of a merger between Northshore University Hospital in Manhasset, Long Island, and Glen Cove Hospital in Glen Cove, Long Island) and Long Island Jewish Medical Center in Glen Oaks, Queens. The merged entity combining the two market leading hospitals on Long Island and Queens was originally known as the North Shore-Long Island Jewish Health System ("North Shore-LIJ").

79. In 2010, North Shore-LIJ expanded into Manhattan by acquiring Lenox Hill Hospital. In 2015, North Shore-LIJ announced that it was changing its name to Northwell to reflect the hospital system's growth beyond Long Island. As North Shore-LIJ's then-CEO, Michael Dowling, stated "being highly visible and clearly understood within and beyond the New York Metropolitan Area requires strong brand recognition."

E. Facts: The Proposed Renovation of Lenox Hill Hospital

80. In 2019, Northwell announced plans to renovate and expand Lenox Hill Hospital which met with overwhelming community opposition and were subsequently withdrawn. Then, in 2023, Northwell presented a revised proposal which, with limited exceptions, was virtually the same as the original proposal. At the CPC's Public Scoping Meeting on March 16, 2023, the true extent of Northwell's proposed massive expansion and decade-long construction sent shockwaves through the community when Northwell disclosed that the scale of the proposed hospital actually had a height and density comparable to the largest midtown Manhattan office buildings.

81. Thereafter, however, Northwell shrouded the project's details in silence for a period of almost two years as it developed detailed plans for the project out of public view. Indeed, the community heard nothing further about the project until November 26, 2024, when Dr. Daniel Baker, the President of Lenox Hill Hospital, appeared before the Manhattan Community Board 8 Zoning, Development and Housing Committee. At that meeting, Dr. Baker informed the community that Northwell expected its application for the needed zoning approvals to be certified within a matter of months, but he refused to discuss the project's details or respond to any questions.

82. The community finally learned the project details when it discovered, without any advance notice from Northwell or the City, that the Land Use Review Application Package with

the application details was available for public access on January 2, 2025, on the Zoning Application Portal, a website maintained by the New York City Department of City Planning. Indeed, it was not until January 28, 2025, only six days before the application was certified by the CPC for review under ULURP, that Northwell finally presented the application details to the Community Board. Since it was determined that the application could have a significant effect on the environment and adverse impacts in one or more areas, a Draft Environmental Impact Statement (“DEIS”) (NYSCEF Doc. No. 46) was prepared and a Notice of Completion for the DEIS (NYSCEF Doc. No. 47) was issued on January 31, 2025. Thereafter, Petitioner CPOLHN made numerous unsuccessful attempts to meet with Northwell. When the parties did finally meet on May 19, 2025, just two days before the CPC’s public hearing, Dr. Baker stated that the hospital’s representatives would not discuss or consider any changes to the project.

83. In view of Northwell’s steadfast refusal to engage in any meaningful dialogue, CPOLHN and its community partners, including FRIENDS of the Upper East Side, Carnegie Hill Neighbors and CIVITAS, joined forces to oppose the project. Thousands of supporters signed a petition in opposition to the project and community members presented voluminous written and oral testimony at the Land Use Meeting of Manhattan Community Board 8. In addition, members of the nation’s largest residential building service workers union, Building Service Local 32 BJ Health Fund (“Local 32BJ”), expressed grave concerns over the impact the project would have on health care costs for its members and the public at large.

84. The community expressed a willingness to support certain aspects of Northwell’s desire to modernize aspects of the Lenox Hill Hospital campus. However, among other problems with the proposed project, its proposed scale, floor plate and mass would be unprecedented for any residential neighborhood in the City and the proposed duration of then-predicted construction for

nine or more years threatened the community's health, safety and welfare (NYSCEF Doc. No. 65). Although existing zoning limited the hospital's height to 175 feet on Lexington Avenue and 75 feet on the 76th Street midblock beginning 180 feet west of Lexington Avenue, the new proposed structure would rise to a height of 436 feet on Lexington Avenue and 210 feet on the midblock (NYSCEF Doc. No. 53, p. 37). As part of its ULURP application, Northwell also proposed a second, alternative "building envelope" which reduced the maximum height to 395 feet but shifted the bulk to the midblock by raising its height from 210 to 360 feet (*id.*).

85. On April 10, 2025, Community Board 8 voted overwhelmingly to disapprove the project unless substantial changes were made (NYSCEF Doc. No. 65). Among other things, the Community Board's resolution provided that:

- "[T]he proposed tower would be over twice the height of the tallest building permitted under the current zoning on Lexington Avenue, and its footprint, occupying the entire Lexington Avenue blockfront at its full height, is too massive and out of scale with the surrounding neighborhood" (NYSCEF Doc No. 65, p. 4);
- "[I]n order to build the proposed development, the applicant requires not only a change of zoning designation on three quarters of the entire site, but then must obtain permission for modification of height, setback and other bulk controls, selecting the most generous bulk and area regulations while seeking relief from those rules" (NYSCEF Doc No. 65, p. 4);
- "[T]he hospital plans to remain open throughout the projected nine year construction period" (NYSCEF Doc No. 65, p. 2);
- "[T]he proposed construction schedule, a result of maintaining operations at the hospital while it is substantially reconstructed, is too long" (NYSCEF Doc No. 65, p. 5);
- "[N]oise and dust and debris are unavoidable with any construction, but the length of construction time anticipated in this development proposal amplifies these issues beyond what is reasonable" (NYSCEF Doc No. 65, p. 5);

- “[T]he working conditions within the hospital during construction will likely degrade patient care and at the very least inconvenience staff” (NYSCEF Doc No. 65, p. 5);
- “[T]he proposed decade of construction will upend our dense residential neighborhood: a thriving community filled with schools, houses of worship, small businesses, hotels and institutions cannot survive the noise, pollutants/dust, danger, traffic and overall chaos that will accompany construction of this magnitude” (NYSCEF Doc No. 65, p. 5);
- “[T]he Community Board acknowledges and agrees with Lenox Hill Hospital that it is in need of modernization and we have no objection to a temporary closing of the hospital during any construction period, to speed up the modernization of the hospital” (NYSCEF Doc No. 65, p. 6); and
- “[H]ealthcare equity would indicate that the applicant’s resources could be put to better use in other parts of the city which have been described as ‘Health Care Deserts’” (NYSCEF Doc No. 65, p. 6).

86. The Community Board proposed its own building envelope permitting a maximum height of 215 feet and the addition of approximately 372,254 gross square feet of floor area (NYSCEF Doc. No. 65, p. 6). This alternative would have permitted Northwell to develop approximately 82% of the gross floor area and almost two-thirds of the increased community facility bulk that it was seeking while avoiding the highly detrimental impacts to the community (the “Reasonable Alternative”). Unfortunately, however, Northwell refused to engage with the community to address the neighborhood’s urgent call for meaningful changes to the Lenox Hill Hospital application, or otherwise consider any aspect of the Reasonable Alternative.

87. On May 14, 2025, within the 30-day review period accorded to Manhattan Borough President Mark Levine under ULURP, he recommended approval of the project subject to seventeen (17) conditions including lowering the building height and reducing the construction timeline (“Second Alternative”) (NYSCEF Doc. No. 66). Once again, however, Northwell responded with a wall of silence and refused to consider the Second Alternative, insisting on

proceeding to the next level of ULURP review by CPC review without making any changes to its application.

F. Facts: The Proposed Zoning Changes

88. The City's longstanding policy and practice in residential neighborhoods, as reflected in the City's Zoning Resolution and Map, has been to zone higher density and bulk on wide streets and lower density on narrow streets especially at the midblock. The wider the street, the greater the density permitted (such as at the entrance to the Queensborough Bridge, York Avenue and the FDR Drive) (Janes Aff. ¶ 8, NYSCEF Doc. No. 15, p. 5). Conversely, the narrower the street, the greater the prevalence of bulk controls such as height limits and setback requirements. For example, mid-blocks throughout the Upper East Side -- including Lenox Hill Hospital's site -- were zoned R8B which is a medium density district subject to contextual bulk controls (*id.* ¶¶ 8-9, NYSCEF Doc. No. 15, p. 5).⁴ In addition, because Lexington Avenue is only 75 feet wide and one of the narrowest avenues on the Upper East Side, properties fronting on Lexington Avenue historically have been zoned with contextual protections, including a 175-foot height limit. In contrast, the properties fronting on Third Avenue, which is 100 feet in width, are subject to far less restrictive bulk controls.

89. Consistent with the surrounding neighborhood, the Lenox Hill Hospital site was zoned R8B for the midblock and C1-8X for the Lexington Avenue frontage (NYSCEF Doc. No. 49, p. 136). The R8B district permitted community facility buildings, *i.e.*, hospitals, up to a

⁴ New York City's contextual bulk controls are zoning regulations designed to make new buildings compatible with the scale and character of their surroundings, primarily by creating more restrictive building envelopes. They are mandatory in contextual districts such as the R8B District and focus on aspects like height limits, street wall placement, lot coverage, and setbacks to ensure new construction respects the existing streetscape. These regulations help to maintain a neighborhood's physical and visual rhythm, ensuring new developments fit in rather than stand out.

maximum 75 feet in height with a 5.10 FAR (NYSCEF Doc. No. 49, p. 140). The C1-8X district permitted a maximum 175 feet in height and a 9.0 FAR for community facility buildings. The site's total density of 7.5 zoning FAR and 9.4 gross FAR was comparable to the density of neighboring blocks.⁵

90. Northwell's application, with its panoply of proposed zoning changes applicable only to Lenox Hill Hospital's block, constituted a dramatic departure from the existing zoning and the City's longstanding practices regarding bulk controls in residential neighborhoods. The first action Northwell sought involved a Zoning Map amendment to rezone the midblock from an R8B to a C1-8 district and the Lexington Avenue frontage of the development site from an C1-8X to a C1-9 district (NYSCEF Doc. No. 49, p. 56). The effect of these changes was to dramatically increase the site's development potential by significantly increasing the permitted FAR and height. Indeed, the FAR for the midblock and Lexington Avenue frontage increased to 10.0 from 5.10 and 9.0, respectively. While the existing zoning permitted a maximum height of 75 feet at the midblock and 175 feet at the Lexington Avenue frontage, the new districts did not impose any height limits for hospitals or residential buildings.

91. Next, Northwell sought zoning text amendments to (i) create a new Special Permit under a new ZR § 74-904 to permit a floor area increase of up to 20% for hospital use, allow such floor area bonus to be used in combination with a ZR § 66-51 transit bonus and permit modification of applicable bulk regulations; (ii) amend ZR § 66-513(a)(2) to allow a transit floor area bonus, in combination with other floor area bonuses, to exceed 20% of the maximum FAR; (iii) amend ZR

⁵ The zoning FAR multiplied by the area of the zoning lot yields the maximum amount of floor area that may be developed on the zoning lot excluding certain spaces within the building's outer walls that do not count as zoning floor area, including for example mechanical spaces, stairwells, and interior parking. The Gross FAR includes those spaces and represents the actual bulk of a building.

§ 92-21 to allow the permitted FAR on a zoning lot partially within the Special Park Improvement District for which a Special Permit is granted under ZR § 74-904 to exceed 10.0 FAR; and (iv) establish part of the development site as a Mandatory Inclusionary Housing area (NYSCEF Doc. No. 49, p. 60).⁶

92. Northwell's third action sought from the CPC the Special Permit proposed as part of the package of Zoning Resolution text amendments also sought by Northwell (see para. 88, *supra*) to allow: i) a 20% (2.0 FAR) floor area bonus; ii) an additional transit bonus of 0.5 FAR; iii) modification of height and setback and other bulk controls; and iv) modification of lot coverage regulations (NYSCEF Doc. No. 49, p. 60). The fourth action involved an authorization pursuant to ZR § 66-511 for a floor area increase of up to 0.5 FAR in connection with improvements by Northwell to the southbound platform of the 77th Street subway station (*id.*).

93. The purpose and effect of these changes in totality was to facilitate Northwell's development of a massive new hospital with a 12.5 FAR (NYSCEF Doc. No. 49, p. 69). The proposed hospital structure would extend 180 feet -- almost halfway -- into the midblock and rise to a staggering two and a half times the height permitted on Lexington Avenue and an almost unbelievable five times the height permitted on the midblock on East 76th and 77th Streets (NYSCEF Doc. No. 49, p. 99, 105). Significantly, *no other midblock in the City is zoned C1-8 allowing the density at the midblock in a residential neighborhood that was granted to Northwell.* Thus, the proposed project would require unprecedented changes in zoning never before seen in New York City.

⁶ New York City's Mandatory Inclusionary Housing (MIH) areas are locations throughout all five boroughs where zoning changes significantly increase the permitted density for new housing construction. In these zones, developers are required to include permanently affordable housing units in new residential developments, enlargements, or conversions that exceed a certain size. MIH is triggered when the city rezones an area for more housing.

94. The proposal would increase the block's density from 620,500 square feet (7.5 FAR) to 1,034,471 square feet (12.5 FAR), a 67% increase, and 781,500 gross square feet (9.4 gross FAR) to 1,390,000 gross square feet (16.9 gross FAR), a 78% increase (NYSCEF Doc. No. 49, pp. 63, 69, 633). This unprecedented density was simply unheard of either in the surrounding community or any other residential neighborhood in the City. The proposal would transform a block with a total density comparable to other blocks in the surrounding neighborhood to one which was jarringly inconsistent and out of scale with the neighborhood.

95. Indeed, developments of this size simply do not exist on the Upper East Side. While the Upper East Side has other buildings of moderate height and scale, they are slender, with setbacks and floor plates that are generally less than 8,000 square feet (*see, e.g.*, Janes Aff. Ex. A at p. 5, NYSCEF Doc. No. 16, p. 21). In contrast, Northwell's proposed floor plate was 30,000 square feet which would be comparable to enormous commercial buildings in Hudson Yards, Midtown, and the Financial District. *Id.*

96. Once the application reached the CPC, the community mobilized again in opposition to the project. The number of petition signers grew to more than 7,000. At the CPC's public hearing on May 21, 2025, forty-six speakers testified in opposition including representatives from FRIENDS of the Upper East Side, the New York Landmarks Conservancy, the City Club of New York, and CIVITAS (NYSCEF Doc. No. 64).

97. Among other things, the community objected to expanding the hospital with a structure the size and shape of a midtown office building over a construction period of at least nine years. In addition, the community noted that the hospital's self-reported average daily census of occupied inpatient beds had decreased by 36% over the last two decades (Hyde Aff. ¶ 4, NYSCEF Doc. No. 81, p. 2-3, & Ex. B, NYSCEF Doc. No. 83). From 2022-2024, the number of occupied

beds was 298, 331 and 312, respectively, resulting in an approximate occupancy rate of 70% based on a mix of single and multi-bedded rooms (*id.*). With an average daily census of 312 and only single-bedded rooms, all patients could be accommodated at 90% occupancy with 350 beds, not 475 (*see, id.*, at ¶ 6, NYSCEF Doc. No. 81, p. 3).

98. Northwell's assertions that undisclosed "data" supported the need for its oversized proposed facility were also contradicted by the realities of modern medicine. Northwell claimed that such "data" justified a 130% increase in bed space (from 177,030 departmental gross square feet ("DGSF") to 412,214) (NYSCEF Doc. No. 49, pp. 621-22, 633) despite the decline in hospital utilization (Hyde Aff. ¶ 7, NYSCEF Doc. No. 81, pp. 3-4). Northwell also claimed that the "data" supported a 140% increase in operating room space (55,227 DGSF to 131,835) (NYSCEF Doc. No. 49 pp. 624, 633) even though almost half of all surgeries were now done in freestanding ambulatory surgery centers rather than hospitals (Hyde Aff. ¶ 7, NYSCEF Doc. No. 81, pp. 3-4). And it represented that such "data" required a doubling of emergency department space (24 to 48 treatment areas) (NYSCEF Doc. No. 49, pp. 24, 69), despite the fact that Lenox Hill Hospital's emergency department volume history showed a peak in 2012 with a downtrend in volume since that time (Hyde Aff. ¶ 7, NYSCEF Doc. No. 81, p. 3-4).

99. In addition, Manhattan Community District 8 on the Upper East Side (which is the Community District in which Lenox Hill Hospital is located) already has an abundance of hospital beds including, in addition to Lenox Hill Hospital, New York Presbyterian/Weill Cornell Medical Center, New York Presbyterian/Alexandra Cohen Hospital for Woman and Newborns, the Hospital for Special Surgery and Memorial Sloan-Kettering (Uttley Aff. ¶ 5, NYSCEF Doc. No. 18, p. 2-3). These hospitals provided a combined total of 10.5 beds per 1,000 residents in Manhattan Community District 8, nearly four times the citywide rate of 2.7 (*id.*). The Lower East

Side, which recently lost its long-time community hospital, Mount Sinai Beth Israel, has less than one bed per thousand residents. The numbers are similar in the outer boroughs: 2.1 in Brooklyn; 1.6 in Queens; 2.3 in Staten Island; and 2.5 in the Bronx (*id.*).

100. Adding hospital capacity in one neighborhood reduces hospital utilization in other neighborhoods and increases the risk of hospital closures. If Northwell seeks to increase “market share” to fill its proposed additional beds, this increase will inevitably come at the expense of other neighborhoods raising significant health equity concerns and conflicting with the City’s policy goals of providing for underserved communities.

101. The proposed development project would cost a minimum of \$2.5 billion (Hyde Aff. ¶ 9, NYSCEF Doc. No. 81, p. 4). In its most recent construction project, Northwell financed 87% of the cost through debt and only 13% through equity (*id.* ¶ 11, NYSCEF Doc. No. 11, p. 5). A similar financing strategy for Lenox Hill Hospital would require paying \$325 million from equity and borrowing \$2.2 billion (*id.* ¶¶ 11-12, NYSCEF Doc. No. 11, p. 5 & Ex. C, NYSCEF Doc. No. 14). With a 5 percent interest rate payable over 30 years, this indebtedness would result in annual principal and interest payments totaling \$141.7 million which would undoubtedly increase both prices and health insurance premiums (*id.*).

102. Notwithstanding the foregoing, on July 2, 2025, the CPC approved Northwell’s applications in their entirety (NYSCEF Doc. Nos. 36-38 Exs. A-C). In reliance on Northwell’s erroneous and misleading statements in the FEIS, the CPC erroneously stated that the development site was “located in an area characterized by a range of building densities and typologies, including other similarly scaled community facility and commercial buildings along the avenues. The proposed zoning will result in a zoning framework that better reflects existing and proposed conditions on this block” (NYSCEF Doc. No. 36, p. 23).

103. Northwell’s assertions were false. The proposed rezoning would result in a massive, bulky structure that would be vastly out of scale with the Lenox Hill community. Indeed, the hospital’s unprecedented density -- including a combination of huge floor plates, height, and minimal setbacks -- simply cannot be found on the Upper East Side, much less in a densely-populated residential neighborhood such as Lenox Hill (Janes Aff. ¶¶ 2, 5-7, NYSCEF Doc. No. 15, p. 2, 3-5). Rather than being “similarly scaled” and “better reflect[ing] existing ... conditions on this block” (NYSCEF Doc. No. 36, p. 23), the proposed development would be shockingly out-of-sync with the existing neighborhood and comparable to enormous commercial buildings in the City’s central business districts.

104. As the applications proceeded to the City Council for its review, the community’s opposition continued to grow. In a written submission to the City Council’s Subcommittee on Zoning and Franchises in connection with its public hearing on July 16, 2025, Local 32 BJ stated:

The 32BJ Health Fund opposes special permitting and rezoning to allow Lenox Hill to expand its facilities in the most hospital-dense area of NYC, because the expansion will contribute to unnecessarily increased healthcare costs for our members. The city should not be granting expansion rights to a private entity with prices and practices that disregard patients’ healthcare affordability concerns.



Northwell hospitals’ exceptionally high prices and related business practices burden our members. Lenox Hill Hospital is part of Northwell Health, which, as the largest health care system in New York State, dominates the markets in the counties it serves with almost double market share versus its closest competitor...



Lenox Hill, along with the rest of Northwell’s 13 other major hospital facilities, already commands exceptionally high prices from commercial payers. According to a study conducted by RAND, compared to what Medicare pays for the same services, commercial payers paid Lenox Hill an average of 335% of Medicare prices from

2020-2022. ... Prices at 335% of Medicare at Lenox Hill (as well as Northwell's overall system-wide average of 355% of Medicare) are far above what is required to cover the cost of providing patient care. These commercial prices are also far above what is required to cover the hospital's claimed shortfalls due to inadequate Medicaid reimbursement and uncompensated care.



Research shows that expensive hospital capital investments such as this one lead to higher prices and a costlier healthcare system. Profitable, higher-priced hospitals (like Lenox Hill) invest in capital more often than less profitable, lower-priced hospitals. These investments tend to increase the volume of patients at the higher-priced hospitals and enhance the hospitals' bargaining power in negotiations with payers, which leads to larger price increases relative to other hospitals.



Granting this special permit will lead to a more unaffordable healthcare landscape in NYC. Our participants, along with other workers and employers who pay for health benefits, will shoulder the costs of this multibillion-dollar expansion during the project and for decades to come. At a time when federal cuts to Medicaid funding pose a danger to patients who may lose health coverage, and when hospitals are concerned about public payor shortfalls, this project does not seem a worthy investment in New Yorkers' pressing needs for sustainable, affordable, and equitable healthcare. (NYSCEF Doc. No. 79 pp. 2-3)

105. In its own separate submission, the New York Landmarks Conservancy (the "Conservancy") stated:

The Conservancy is a 52-year old organization dedicated to preserving, revitalizing, and reusing New York's historic buildings and neighborhoods. We want to ensure that New York's rich diversity of architecture continues to enhance the City: creating jobs,

housing New Yorkers, encouraging sustainability, and welcoming visitors from around the world.



The Conservancy opposes Lenox Hill Hospital's redevelopment plan, which would radically change zoning in this neighborhood. ...



The upzoning of the Lexington Avenue site and the midblock on East 76th Street threatens carefully calibrated zoning protections that maintain the character of Park and Lexington Avenues and their low-rise midblock corridors. It disregards Lexington Avenue's historical constraints as a narrow, pedestrian-heavy, retail-oriented corridor with "special neighborhood character." The proposed tall building additions along 76th Street would disrupt the hard-won, low-rise character of the mid-blocks, which are largely residential. If the proposal is approved, it will set a precedent for upzoning throughout the neighborhood and the City. (NYSCEF Doc. No. 68, p. 209)

106. The City Council Land Use Committee voted to modify the CPC approval of the Lenox Hill Hospital rebuild, but the changes failed to address in any material respect the project's anticipated impacts. While the Land Use Committee modifications reduced the maximum height of the new building fronting on Lexington Avenue from 436 feet to 370 feet, they also increased the maximum building height fronting on East 76th Street at the midblock (a point beginning 180 feet west of Lexington Avenue) to 235 feet (NYSCEF Doc. No. 51, p. 2), which effectively did nothing more than to shift the massive building's bulk from the avenue frontage to the narrower midblock. The duration of construction projected by Northwell was reduced from nine years to eight years (NYSCEF Doc. No. 51, p. 2), which in either event would keep the Lenox Hill neighborhood a construction zone for an inordinately protracted period of years and without providing any mechanism to ensure against the period of construction extending to nine years or even longer.

107. The Land Use Committee voted for other modifications, none of which addressed the community's apprehensions about the project that gave rise to overwhelming opposition that had been mounted by the Lenox Hill neighborhood, including: (i) reduction of three curb cuts along East 77th Street to a single curb cut; (ii) changing the zoning text amendment for the new Special Permit under the proposed ZR § 74-904 to require that should Northwell undertake the hospital rebuild under the Special Permit, then at least 95% of the floor area be used for hospital purposes; (iii) replacement of the ambulance bay for 6 ambulances on East 77th Street by a through-block driveway with entry on East 77th Street and exit on East 76th Street; (iv) adding six ambulance parking spaces and two ambulette spaces along the driveway inside the modified hospital building; and (v) relocating a proposed separate entrance to the Mother-Baby wing of the hospital from Park Avenue to East 77th Street. (NYSCEF Doc. No. 51, p. 2)

108. On August 14, 2025, the City Council approved the CPC's decisions, as modified, and adopted all of Northwell's proposed zoning actions. (NYSCEF Doc. No. 73).

**AS AND FOR A FIRST CAUSE OF
ACTION PURSUANT TO CPLR ARTICLE 78**

(Spot Zoning)

109. Petitioners repeat, reallege and reaffirm each and every allegation in paragraphs "1" through "108" of this Amended Petition and Complaint as if set forth more fully herein.

110. The City's approvals constituted illegal spot zoning enacted solely for Northwell's benefit to the detriment of the surrounding community. The approvals conflict with the City's longstanding zoning policy and are not part of a well-considered and comprehensive plan calculated to serve the general welfare of the community. On the contrary, the approvals which were specific to the Lenox Hill Hospital site, were granted solely to facilitate Northwell's private development plans to transform Lenox Hill Hospital into an enormous trophy asset to attract

wealthy patients. Since the approvals seek to advance the special and singular interests of a private landowner at the public's expense, they constitute nothing more than *ad hoc* zoning legislation which is contrary to the community's fundamental zoning and land use policies.

111. Petitioners have no adequate remedy at law.

112. By reason of the foregoing, Petitioners are entitled to an order vacating, and declaring null and void, all approvals associated with the proposed project, a temporary restraining order and preliminary injunction to prevent the commencement of work in connection therewith and a permanent injunction prohibiting all work pertaining to the proposed project.

**AS AND FOR A SECOND CAUSE OF
ACTION PURSUANT TO CPLR SECTION 3001**

(Declaratory Judgment)

113. Petitioners repeat, reallege and reaffirm each and every allegation in paragraphs "1" through "112" of this Amended Petition and Complaint as if set forth more fully herein.

114. General City Law § 20(25) empowers The City of New York to enact zoning regulations which are "designed to promote the public health, safety and general welfare ... in accord with a well considered plan."

115. The City's rezoning of Lenox Hill Hospital violates General City Law § 20(25). Although generally the Zoning Resolution itself has been viewed as New York City's well-considered plan, what the City did here is not in accordance with what is contextually the City's land use policy applicable to similarly-situated residential districts most immediately on the Upper East Side of Manhattan, and more broadly in other densely-populated neighborhoods in New York City. Inescapably, the zoning approvals granted for the Lenox Hill Hospital expansion are not in accordance with the City's well-considered plan. Northwell, in its pursuit of the approvals, and the

City by its approval of the applications, contend otherwise in contravention of this claim by Petitioners.

116. A judicial declaration and determination is necessary and desirable to resolve this controversy.

117. Petitioners are entitled to a declaratory judgment decreeing and adjudging that the City's rezoning violated General City Law § 20(25) and should be vacated, annulled, and set aside by this Court.

118. Petitioners have no adequate remedy at law.

**AS AND FOR A THIRD CAUSE OF
ACTION PURSUANT TO CPLR ARTICLE 78**

(SEQRA/ CEQR)

119. Petitioners repeat, reallege and reaffirm each and every allegation in paragraphs "1" through "118" of this Amended Petition and Complaint as if set forth more fully herein.

120. Under SEQRA, an environmental impact statement must take "a hard look" at the proposed project's foreseeable adverse environmental impacts, the possible mitigation of those adverse impacts, and the range of alternatives to those aspects of the proposed project that cause such impacts. As reflected below, the FEIS fails to take a hard look at multiple adverse environmental impacts; fails to adequately address the possible mitigation of those impacts; and fails to address the range of alternatives available to those aspects of the proposed project that cause such adverse impacts. Worse, the FEIS includes disturbingly inaccurate information, ostensibly designed to mislead municipal decision makers into mistakenly approving the proposed project – a strategy which regrettably succeeded. Such deficiencies constitute clear grounds upon which to vacate all approvals by the City as further set forth below:

- The FEIS refers to the surrounding neighborhood as "a mix of institutional, residential and retail uses" (FEIS Ch. 2) (NYSCEF Doc. No. 49, p. 135), even

- though the neighborhood is largely comprised of residential use, with mere ground-floor retail spaces. By referring to the study area as a mix of institutional and residential uses, the FEIS implies that the addition of a massive institutional facility contemplated by the proposed project would fit within the established character of the neighborhood, when, in fact, the bulk and size of the proposed new facility and the buildings comprising it would be vastly out of scale in comparison to every other building and structure in the study area.
- The FEIS implies that high-density zoning predominates in the study area (FEIS Ch. 2) (NYSCEF Doc. No. 49, pp. 138-142), based upon the assertion that it includes seven wide thoroughfares. However, four of the thoroughfares are located outside the study area (*id.*, p. 114) – a fact not disclosed by the FEIS.
 - The purported programmatic needs that FEIS indicates must be satisfied are insufficiently described. In particular, as set forth above, Northwell seeks a 78% increase of 600,000 gross square feet (i.e., a 67% increase in FAR from 7.5 to 12.5) to accommodate a relatively limited increase in scope of services (just 25 additional beds, 5 additional operating rooms and 14 additional emergency treatment stations) (FEIS Ch. 1) (NYSCEF Doc. No. 49, pp. 119-121, 633). The FEIS fails to explain the uses deployed for the remaining mass of square footage comprising the increase that is precipitating the unprecedented increase in bulk and size for Lenox Hill Hospital. Thus, the FEIS includes a provocative assertion without including substantial (or really any) evidence to support it.
 - The FEIS fails to explain its programmatic need for 25 additional beds, 5 additional operating rooms and 14 additional emergency treatment stations, in view of the evidence that: (i) Lenox Hill currently has inordinately high vacancy rates (Hyde Aff. ¶ 4, NYSCEF Doc. No. 81, pp. 2-3); (ii) the health care industry has been transitioning to ambulatory surgery and thus there is reduced demand for hospital beds, thereby obviating the need for the additional 25 beds, even assuming that Lenox Hill weren't already experiencing high hospital-room vacancy rates (see above); (iii) as stated above, almost half of all surgeries are now done in freestanding ambulatory surgery centers rather than hospitals, thereby averting any need for additional operating rooms; and (iv) with the advent of CityMD and other urgent care centers, studies have shown that emergency room visits have declined at an average of approximately 17%, thereby reducing Northwell's purported need for additional emergency treatment stations. Thus, the FEIS includes an assertion announcing an allegedly pressing programmatic need without the evidence necessary to support it.
 - The FEIS implies that the proposed project would have minimal impacts on building heights at the midblock on East 76th and 77th Streets (FEIS Ch. 2) (NYSCEF Doc. No. 49, p. 150). However, while acknowledging that the height of the proposed new building within 180 feet of Lexington Avenue would rise

to a maximum height of 370 feet, the FEIS fails to disclose that such bulk and height would be wildly out of scale relative to the other buildings on the block, which range from 40 to 200 feet in height, and which have floor plates that comprise a mere fraction of the floor area comprising Northwell's new building. The CEQR Technical Manual confirms that a proposed action has adverse impacts when it "would result in significant material changes to existing regulations or policy" or when "the project would create a land use conflict or would itself conflict with public policies and plans for the site or surrounding area" (CEQR Tech. Man. 4-25). Plainly, the proposed project would result in significant adverse impacts under the provisions of the CEQR, but such impacts are masked behind animated techno-zoning speak, designed to mislead decision makers and obfuscate the review process.

- The FEIS includes an assertion that the duration of the construction is necessary in order for the hospital to remain fully open and operational during the work because the physicians associated with Lenox Hill Hospital would otherwise be unable to round on patients or perform emergency care for them if their patients are located in hospitals in other neighborhoods (Attachment 1(D)) (NYSCEF Doc. No. 49, p. 625). However, the FEIS fails to include a census of the physicians and their addresses, information concerning where their patients would be hospitalized in the event of a temporary Lenox Hill Hospital closure, or the extent to which public transportation in New York City would alleviate alleged travel burdens to the extent that they exist at all. Once again, the FEIS includes assertions without substantial evidence to support them.
- The FEIS acknowledges "significant adverse shadow impact[s]" to the Eighth Church of Christ, Scientist garden during the "spring, summer, and fall analysis periods" (*i.e.*, for three quarters of the year) (FEIS Ch. 4), and states simply that "[t]he Applicant has begun consultation with church representatives with regard to mitigation", that, at some unspecified point in time, "the Applicant will enter into a Restrictive Declaration that will require mitigation measures" and tentatively lists some form of mitigation that "could" be implemented (NYSCEF Doc. No. 49, p. 201). However, the FEIS fails to describe or commit to any concrete mitigation measures with particularity. Equally as important, the FEIS fails to particularize and consider the alternatives to acceptance of shadow impacts – specifically, reducing the size and/or altering the shape and bulk, of the structures.
- The FEIS refers to "temporary" construction noise and related impacts as unavoidable (NYSCEF Doc. No. 49, p. 397), and proposes to mitigate such noise and other impacts by providing to neighboring property owners, air conditioning units to be run at all hours of the day as construction continues, including during the winter (FEIS Ch. 18) (NYSCEF Doc. No. 49, p. 517). The FEIS, however, fails to factor in the extent to which debris and airborne particulates emitted during construction, as well as smog and other pollutants released into the air due to stagnant traffic, are likely to contribute to air quality

issues inside apartments exacerbated by constantly running air conditioning units.

- The FEIS “finds” no significant open space impacts (FEIS Ch. 5) (NYSCEF Doc. No. 49, p. 203) notwithstanding that the FEIS also finds that the Eighth Church of Christ, Scientist garden will be covered in shade for most of the year (FEIS Ch. 4) (NYSCEF Doc. No. 49, p. 201) – a truly irrational juxtaposition of findings. As its sole mitigation/alternative, the FEIS merely references that Central Park is available several blocks away. Such does not constitute a hard look at the adverse impact identified or possible alternatives and mitigation.
- The FEIS suggests an alleged as-of-right support building on Projected Development Site 1a, which is described as “analyzed as part of the Proposed Project,” but also as a project that “may occur independent of the Proposed Project” (NYSCEF Doc. No. 49, p. 69). However, the FEIS fails to address the extent to which the as-of-right support building would include additional adverse impacts, suggesting that the FEIS is illegally segmenting the proposed project so as to further minimize adverse impacts and avoid explaining the inability to mitigate.
- The foregoing constitutes representative examples rather than an exhaustive list of each instance in which the FEIS includes false, misleading or vague/incomplete statements relating to adverse environmental impacts.

121. Accordingly, the FEIS failed to comply with the requirements of 6 N.Y.C.R.R. §617 *et. seq.* and ECL Article 8.

122. By reason of the foregoing, Petitioners are entitled to an order vacating, and declaring null and void, all approvals associated with the proposed project, a temporary restraining order and preliminary injunction to prevent the commencement of work in connection therewith and a permanent injunction prohibiting all work pertaining to the proposed project.

123. Petitioners have no adequate remedy at law.

**AS AND FOR A FOURTH CAUSE OF
ACTION PURSUANT TO CPLR SECTION 6301**

(Permanent Injunction)

124. Petitioners repeat, reallege and reaffirm each and every allegation in paragraphs “1” through “123” of this Amended Petition and Complaint as if set forth more fully herein.

125. As set forth above, the City's approvals violated SEQRA and CEQR and constituted illegal spot zoning enacted solely for Northwell's benefit to the detriment of the surrounding community. In addition, the City's rezoning violated General City Law § 20(25) because it was not done in accordance with a well-considered plan and instead was adopted to further Northwell's private development plans rather than the public interest.

126. Petitioners have no adequate remedy at law and will suffer irreparable injury in the absence of injunctive relief.

127. By reason of the foregoing, Petitioners are entitled to a permanent injunction enjoining and restraining Respondents from proceeding with the redevelopment, construction, and/or expansion of Lenox Hill Hospital.

128. No prior application for this or any similar relief has been made in this or any other Court.

WHEREFORE, Petitioners request that the Court enter judgment in their favor as follows:

- a) On the first cause of action pursuant to CPLR Article 78, vacating, annulling and declaring null and void all approvals associated with the proposed project on the grounds that they constitute illegal spot zoning;
- b) On the second cause of action for a declaratory judgment, decreeing and adjudging that the City's rezoning violated General City Law § 20(25) and should be vacated, annulled, and set aside;
- c) On the third cause of action pursuant to CPLR Article 78, vacating, annulling and declaring null and void all approvals associated with the proposed project on the grounds that they violate SEQRA/CEQR;

- d) On the fourth cause of action for a permanent injunction, enjoining and restraining Respondents from proceeding with the redevelopment, construction, and/or expansion of Lenox Hill Hospital; and
- e) Awarding Petitioners the costs and disbursements of this action, including reasonable attorneys' fees, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York
March 26, 2026

DAVIDOFF HUTCHER & CITRON LLP

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Attorneys for Petitioners/Plaintiffs

VERIFICATION

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

ANDREW D. SOUSSLOFF, being duly sworn, deposes and says:

1. I am the President of COMMITTEE TO PROTECT OUR LENOX HILL NEIGHBORHOOD, INC. (“CPOLHN”), a petitioner/plaintiff in the above captioned matter, and CPOLHN is united in interest and pleads together with petitioners/plaintiffs CIVITAS CITIZENS INC., 145 EAST 76TH STREET CORPORATION, EAST 76TH REALTY CO., INC., 829 PARK AVENUE CORPORATION, PARK AND 76TH ST. INC., 885 PARK AVENUE CORPORATION, 863 PARK AVENUE, INC., PARK AVENUE AND SEVENTY-SEVENTH STREET CORPORATION, 875 PARK AVENUE CORPORATION, 1065 LEXINGTON AVENUE CORPORATION, ANDREW PEARCE, BARBARA MINTZ, ELIZABETH HERKELRATH, WILLIAM HERKELRATH, HILARY CECIL-JORDAN, LENORE PASSAVANTI, PIERRE VAN BOCKSTAELE, and WENDY LEHMAN LASH.

2. I have read the foregoing amended petition and complaint and know the contents thereof to be true to my knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters I believe them to be true.



ANDREW D. SOUSSLOFF

Sworn to before me this
25th day of March, 2026.



Notary Public

O I S I L O
Notary Public, State of New York
No. 01LO5034923
Qualified in Kings County
Commission Expires October 24, 2026