

Sutton Opposes Giant Tower

By ROBERTA B. GRATZ

Manhattan Borough President Sutton will oppose construction on the West Side of what would be the city's largest luxury apartment house built under the 1961 zoning regulations.

For the first time, Sutton will go before the Board of Standards and Appeals in opposition to a variance request by developer Paul Millstein to build an apartment tower more than 50 per cent larger than zoning regulations permit.

The site is across from Lincoln Center on the east side of Broadway between 62d and 63d Streets. It is now a garage.

The board is holding a special hearing Thursday to consider Millstein's variance petition, which is rapidly becoming a citywide controversy.

Sutton has also agreed to be honorary co-chairman of the Citywide Lincoln Square Defense Committee, a group organized to oppose the variance and to challenge it in the courts if it is approved.

The proposed building is within the Lincoln Square district—one of the city's 20 special zoning districts created by the Planning Commission to encourage good design and special architectural amenities through incentive bonuses to builders.

The 43-story, 612-unit building would be half again as large as the special district regulations allow.

Sutton is breaking precedent for this case because "this variance threatens special district zoning throughout the city," Deputy Borough President Jolie Hammer explains. "This is the first time," she added, "a builder is bypassing the City Planning Commission and the Board of Estimate to build the highest FAR in the city." FAR, or Floor Area Ratio, measures a building's density and is the amount of floor area allowed in relation to the size of the building lot.

The case is also considered a test of the "hardship variance," which builders often seek in order to build something the zoning code normally prohibits. The variance power of the Bureau of Standards and Appeals provides legal recourse for builders confronted with an unusual building lot with "unique physical conditions."

The bureau first considered the matter at a June hearing. It was then scheduled to be heard again and decided upon in July. A further special hearing was set for this month at the urging of Sutton, who argued that many of the people "whose environment would be affect-

ed by the proposed variance" would be vacationing out of town and would not be able "to testify as to their opinions."

According to Charles G. Moerdler, a former Buildings Commissioner and Millstein's lawyer, the variance is necessary because of "hardship" produced in part from economics of construction and land costs and in part because of the limits imposed by the special district.

A Wide Issue Seen

"This issue goes far beyond Lincoln Square," says Fred Papert, the advertising executive who has been involved in several zoning battles, mostly on the East Side. He was a prime mover in gaining establishment of the Carnegie Hill special district this year and is one of the organizers of the Citywide Lincoln Square Defense Committee.

"If this variance is granted, it would effectively break special districts and destroy all zoning throughout the city," Papert says. "Special districts," he adds, "are a creative way to allow accords between builders and community groups. If they can be broken by one greedy fellow, there is no legal way to stop anyone from building anything anywhere in the city."