



IN THE MATTER OF an application submitted by NBT Victory Development LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-533 of the Zoning Resolution to waive 72 required accessory off-street parking spaces for dwelling units in a development within a Transit Zone, that includes at least 20 percent of all dwelling units as income-restricted housing units, in connection with a proposed mixed-use development, on property located at 2031-2033 Fifth Avenue (Block 1750, Lot 1), in a C4-7 District, Borough of Manhattan, Community District 11.

This application for the grant of a special permit pursuant to Section 74-533 of the Zoning Resolution, was filed by NBT Victory Development LLC on May 30, 2017. The requested action, in conjunction with the related actions, would facilitate development of a new 20-story mixed-use building comprising new performance space for the National Black Theater, mixed-income housing and retail space. The project site is located in East Harlem, Manhattan Community District 11.

RELATED ACTIONS

In addition to the requested special permit (C 170444 ZSM), which is the subject of this report, implementation of the proposed development also requires action by the City Planning Commission on the following applications, which are being considered concurrently with this application:

C 170442 ZMM Zoning map amendment to change a C4-4A district to a C4-7 district.

N 170443 ZRM Zoning text amendment to establish a new sub-district within the Special 125th Street District and to designate a Mandatory Inclusionary Housing (MIH) area.

BACKGROUND

A full background discussion and description of this application appears in the report for the related zoning map amendment action (C 170442 ZMM).

ENVIRONMENTAL REVIEW

This application (C 170444 ZSM), in conjunction with the related actions (C 170442 ZMM and N 170443 ZRM), was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 17DCP134M. The Lead Agency is the City Planning Commission.

A summary of the environmental review, including the Environmental Assessment Statement (EAS), issued on June 5, 2017, appears in the report on the related application for a zoning map amendment (C 170442 ZMM).

UNIFORM LAND USE REVIEW

This application (C 170444 ZSM), in conjunction with the application for the related action (C 170442 ZMM), was certified as complete by the Department of City Planning on June 5, 2017, and was duly referred to Community Board 11 and the Manhattan Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b) along with the related application for a zoning text amendment (N 170443 ZRM), which was referred for information and review in accordance with the procedures for non-ULURP matters.

Community Board Public Hearing

Community Board 11 held a public hearing on this application (C 170444 ZSM), on August 9, 2017 and on that date, by a vote of 30 in favor, none opposed, and with one abstention, adopted a resolution recommending approval of the application.

Borough President Recommendation

This application (C 170444 ZSM), was considered by the Manhattan Borough President, who issued a recommendation approving the application on September 14, 2017.

City Planning Commission Public Hearing

On September 6, 2017 (Calendar No. 13), the City Planning Commission scheduled September

19, 2017, for a public hearing on this application (C 170444 ZSM) and the related actions. The hearing was duly held on September 19, 2017 (Calendar No. 30), in conjunction with the applications for the related actions.

Five speakers testified in favor of the application, as described in the report for the related zoning map amendment action (C 170442 ZMM), and the hearing was closed.

CONSIDERATION

The Commission believes that the requested special permit, in conjunction with the related actions, is appropriate. A full consideration and analysis of the issues and the reasons for approving this application appear in the report for the related zoning map amendment action (C 170442 ZMM).

FINDINGS

The City Planning Commission hereby makes the following findings pursuant to Section 74-533 of the Zoning Resolution:

- (a) that such waiver or reduction will facilitate such #development# or #enlargement#. Such finding shall be made in consultation with the Department of Housing Preservation and Development;
- (b) will not cause traffic congestion; and
- (c) will not have undue adverse effects on residents, businesses, or #community facilities# in the surrounding area, as applicable, including the availability of parking spaces for such #uses#.

RESOLUTION

RESOLVED, that the City Planning Commission finds that the action described herein will have no significant impact on the environment, and be it further

RESOLVED, by the City Planning Commission, pursuant to Section 197-c and 200 of the New York City Charter, that based on the environmental determination and the consideration and

findings described in this report, the application submitted by NBT Victory Development LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-533 of the Zoning Resolution to waive 72 required accessory off-street parking spaces for dwelling units in a development within a Transit Zone, that includes at least 20 percent of all dwelling units as income-restricted housing units, in connection with a proposed mixed-use development, on property located at 2031-2033 Fifth Avenue (Block 1750, Lot 1), in a C4-7 District, Borough of Manhattan, Community District 11, is approved, subject to the following conditions:

- 1) The property that is the subject of this application (C 170444 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following approved plans, prepared by Dattner Architects, filed with this application and incorporated in this resolution:

Drawing No.	Title	Last Date Revised
Z-100.00	Zoning Site Plan For Special Permit Pursuant To ZR 74-533	05/22/2017
Z-101.00	Zoning Site Plan For Special Permit Pursuant To ZR 74-533	05/22/2017

- 2) Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.
- 3) Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.
- 4) In the event the property that is the subject of the application is developed as, sold as, or converted to condominium units, a homeowners' association, or cooperative ownership, a copy of this resolution and the restrictive declaration described below and any subsequent

modifications to either document shall be provided to the Attorney General of the State of New York at the time of application for any such condominium, homeowners' or cooperative offering plan and, if the Attorney General so directs, shall be incorporated in full in any offering documents relating to the property.

- 5) All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sublessee or occupant.

- 6) Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms or conditions of this resolution the provisions of which shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure or breach of any of the conditions referred to above, may constitute grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, renewal or extension of the special permit hereby granted.

- 7) Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's action or failure to act in accordance with the provisions of this special permit.

The above resolution (C 170444 ZSM), duly adopted by the City Planning Commission on October 18, 2017 (Calendar No. 19) is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

MARISA LAGO, *Chair*
KENNETH J. KNUCKLES, *Esq.*, *Vice-Chairman*
RAYANN BESSER, ALFRED C. CERULLO, III,
MICHELLE DE LA UZ, JOSEPH I. DOUEK,
RICHARD W. EADDY, CHERYL COHEN EFFRON,
HOPE KNIGHT, ANNA HAYES LEVIN,
ORLANDO MARIN, LARISA ORTIZ *Commissioners*