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**IN THE MATTER OF** an application submitted by the Department of Housing Preservation and Development pursuant to Section 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to Section 74-744(b) of the Zoning Resolution to modify the use location requirements of Section 32-421 (Location of commercial uses) to allow Use Group 6 on portions of the third floor of a proposed building (Building A), in connection with a proposed mixed use development, within a large-scale general development, on property generally bounded by East 112<sup>th</sup> Street, Park Avenue, East 111<sup>th</sup> Street and Madison Avenue (Block 1617, Lots 20, 22, 23, 25, 28, 29, 31, 33, 35, 37-43, 45, 46, 48, 50-54, 121 and 122), in R9/C2-5 Districts, Borough of Manhattan, Community District 11.

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This application (C 170366 ZSM) was filed on April 17, 2017 by the Department of Housing, Preservation and Development (HPD) for the grant of a special permit pursuant to Section 74-744(b) of the Zoning Resolution to modify the use location requirements of Section 32-421 (Location of commercial uses) to allow Use Group 6 on portions of the third floor a proposed building (Building A), in connection with a proposed mixed use development, within a large-scale general development, on property generally bounded by East 112<sup>th</sup> Street, Park Avenue, East 111<sup>th</sup> Street and Madison Avenue (Block 1617, Lots 20, 22, 23, 25, 28, 29, 31, 33, 35, 37-43, 45, 46, 48, 50-54, 121 and 122)), in the East Harlem neighborhood of Manhattan, Community District 11.

**RELATED ACTIONS**

In addition to the special permit (C 170366 ZSM), that 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 170361 ZMM      Zoning map amendment to change existing R7-2 and R7-2/C1-4 districts to R9 and R9/C2-5 districts.
  
- N 170362 ZRM      Zoning text amendment to designate a Mandatory Inclusionary Housing (MIH) area.

- C 170363 HAM Urban Development Action Area Project (UDAAP) designation and project approval and the disposition of City-owned property.
- C 170364 PQM Acquisition of a portion of the Disposition Area by the City for community garden use.
- C 170365 ZSM Special permit to modify the height and setback and yard requirements within a Large-Scale General Development.
- C 170367 ZSM Special permit to modify parking requirements within a Large Scale General Development.
- N 170368 ZCM Certification from the City Planning Commission to modify the ground-floor use requirements for a building facing a wide street.

### **BACKGROUND**

A full background discussion and description of this application appear in the report on the related UDAAP action (C 170363 HAM).

### **ENVIRONMENTAL REVIEW**

This application (C 170366 ZSM), in conjunction with the related actions (C 170361 ZMM, N 170362 ZRM, C 170363 HAM, C 170364 PQM, C 170365 ZSM, C 170367 ZSM and N 170368 ZCM), 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 17DCP048M. The lead agency is the City Planning Commission.

A summary of the environmental review, including the Final Environmental Impact Statement (FEIS), issued on September 19, 2017, appears in the report on the related UDAAP action (C 170363 HAM).

### **UNIFORM LAND USE REVIEW**

This application (C 170366 ZSM), in conjunction with the related actions (C 170361 ZMM, C 170363 HAM, C 170364 PQM, C 170365 ZSM and C 170367 ZSM), was certified as complete by the Department of City Planning on April 24, 2017 and was duly referred to Manhattan 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 applications for a zoning text amendment ( N 170362 ZRM) and a City Planning Commission certification (N 170368 ZCM), which were 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 the application (C 170366 ZSM) on June 27, 2017 and on that date, by a vote of 29 in favor, five in opposition, and with three abstentions, adopted a resolution recommending approval with conditions.

A summary of the Community Board's recommendations appears in the report on the related UDAAP action (C 170363 HAM).

### **Borough President Recommendation**

This application (C 170366 ZSM) was considered by the Manhattan Borough President, who

issued a recommendation approving the application with conditions on August 2, 2017.

A summary of the Borough President's recommendations appear in the report for the related UDAAP action (C 170363 HAM).

### **City Planning Commission Public Hearing**

On August 9, 2017 (Calendar No. 25), the City Planning Commission scheduled August 23, 2017 for a public hearing on this application (C 170366 ZSM) and the applications for the related actions. The hearing was duly held on August 23, 2017 (Calendar No. 43).

There were eight speakers in favor of the application and none in opposition, as described in the report on the related UDAAP action (C 170363 HAM).

### **CONSIDERATION**

The Commission believes that this proposed special permit, in conjunction with the related actions, is appropriate.

A full consideration and analysis of the issues and the reasons for approving the application appears in the report on the related UDAAP action (C 170363 HAM).

### **FINDINGS**

The City Planning Commission hereby makes the following findings pursuant to Section 74-744(b) of the Zoning Resolution (Modification of use regulations):

1. the #commercial use# are located in a portion of the #mixed building# that has separate access to the outside with no opening of any kind to the #residential# portion of the #building# at any #story#;
2. the commercial uses# are not located directly over an #story# containing #dwelling units#; and
3. the modifications shall not have any adverse effect on the #uses# located within the

#building#.

**RESOLUTION**

**RESOLVED**, that having considered the Sendero Verde Development Alternative in the Final Environmental Impact Statement (FEIS) of the Harlem Neighborhood Rezoning applications, for which a Notice of Completion was issued on September 19, 2017, with respect to this application (CEQR No. 17DCP048M), and the Technical Memorandum, dated September 29, 2017, the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act and Regulations have been met and that:

1. Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is one which avoids or minimizes adverse environmental impacts to the maximum extent practicable; and
2. The adverse environmental impacts identified in the Sendero Verde Development Alternative of the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, pursuant to the Land Disposition Agreement(s) with the City, those project components related to the environment and mitigation measures determined to be practicable.

The report of the City Planning Commission, together with the FEIS and the Technical Memorandum dated September 29, 2017, constitute the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to Section 617.11(d) of the SEQRA regulations; and be it further

**RESOLVED**, that the City Planning Commission finds that the action described herein will have no significant impact on the environment; and

**RESOLVED**, by the City Planning Commission, pursuant to Sections 197-c and 200 of the

New York City Charter, that based on environmental determination and the consideration and findings described in this report, the application submitted by the NYC Department of Housing Preservation and Development pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-744(b) of the Zoning Resolution to modify the use location requirements of Section 32-421 (Location of commercial uses) to allow Use Group 6 on portions of the third floor a proposed building (Building A), in connection with a proposed mixed use development, within a large-scale general development, on property generally bounded by East 112<sup>th</sup> Street, Park Avenue, East 111<sup>th</sup> Street and Madison Avenue (Lots 20-23, 25, 28, 29, 31, 33-35, 37-43, 45, 46, 48, 50-54, 121 and 122), in R9/C2-5\* Districts, Borough of Manhattan, Community District 11, is approved, subject to the following conditions:

1. The application that is the subject of this application (C 170366 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications, and zoning computations indicated on the following plans, prepared by Handel Architects, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
Z-002.00	Zoning Analysis	04/17/2017
Z-010.00	Site Plan (Roof Plan)	09/22/2017
Z-025.00	Special Permit Use Modifications Ground Floor Plan	09/22/2017
Z-026.00	Special Permit Use Modification 3 <sup>rd</sup> Floor Plan	09/22/2017

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. Development pursuant to this resolution shall be allowed only after the restrictive declaration attached as Exhibit A to the related special permit (C 170365 ZSM), with such administrative changes as are acceptable to Counsel to the Department of City Planning, have been executed and recorded in the Office of the City Register, New York County. Such restrictive declaration shall be deemed incorporated herein as a condition to this resolution.
5. In the event that 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 report and resolution and any subsequent modifications 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.
6. 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.
7. 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 whose provisions 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 as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted.

8. 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 failure to act in accordance with the provisions of this special permit.

The above resolution (C 170366 ZSM), duly adopted by the City Planning Commission on October 2, 2017 (Calendar No. 10), 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 R. DE LA UZ,**  
**JOSEPH DOUEK, RICHARD W. EADDY,**  
**CHERYL COHEN EFFRON, HOPE KNIGHT, ANNA HAYES LEVIN,**  
**ORLANDO MARIN, LARISA ORTIZ** *Commissioners*