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**IN THE MATTER OF** an application submitted by 245 East 53rd Street LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 8d, by establishing within an existing R8B District a C2-5 District bounded by a line 150 feet easterly of Third Avenue, a line midway between East 54th Street and East 53rd Street, a line 100 feet westerly of Second Avenue, a line midway between East 53rd Street and East 52nd Street, a line 160 feet easterly of Third Avenue, and East 53rd Street, Borough of Manhattan, Community District 6, as shown on a diagram (for illustrative purposes only) dated October 29, 2018 and subject to the conditions of CEQR Declaration E-511.

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This application for a zoning map amendment was filed by 245 East 53<sup>rd</sup> Street Realty, LLC on June 6, 2018 to map a C2-5 commercial overlay on an existing R8B district along the interior portion of East 53<sup>rd</sup> Street between Second and Third avenues in Turtle Bay, Manhattan, Community District 6. The proposed action would facilitate the conversion of a ground floor community facility space to commercial use in a new six-story mixed-use development located at 245 East 53<sup>rd</sup> Street, within the rezoning area.

## **BACKGROUND**

The proposed zoning map amendment to add a C2-5 commercial overlay to an existing R8B district along the interior portion of East 53<sup>rd</sup> Street, between Second and Third avenues (the rezoning area) would affect 27 properties, including the applicant-owned development site, a new six-story mixed-use building (Block 1327, Lot 19). The rezoning area, located within the Special Transit Land Use District and adjacent to the Special Midtown District, specifically consists of 27 tax lots: Block 1327, Lots 11, 13, 14, 15, 16, 17, 18, 19 (the development site), 20 and portions of Lot 5; and Block 1326, Lots 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 140, 41 and portions of Lots 1, 7 and 10. The action would also facilitate the conversion of a ground floor community facility space to commercial use in an applicant-owned new six-story mixed-use development.

Prior to 1961, the rezoning area was zoned for commercial use and in 1961, the area was mapped with an R8 zoning district. Many of the properties in the rezoning area today retain a ground floor commercial use. In 1987, the current R8B contextual district was created as part of the Turtle Bay

Midblock Rezoning (C 870963 ZMM) in order to limit the development of tall, slender buildings out of context with the built conditions of the surrounding area. The underlying R8B district is mapped over the interior portions of Blocks 1321 through 1327, between 48<sup>th</sup> and 53<sup>rd</sup> streets and Second and Third avenues. R8B districts permit residential and community facility uses, with a maximum floor area ratio (FAR) of 4.0. Quality Housing regulations which encourage development consistent with neighborhood character through bulk and lot coverage rules, are mandatory in R8B districts. The maximum building height is 75 feet with a 55-foot minimum base height and 65-foot maximum base height. Setbacks of 15 feet are required on narrow streets and 10 feet along wide streets. East 53<sup>rd</sup> Street runs one-way westbound and is generally developed with mixed-use buildings and some community facilities, with the buildings ranging in height from five to 12 stories.

The western end of the rezoning area along Third Avenue is zoned C6-6 and the eastern end along Second Avenue is zoned C1-9. Both of these zoning districts permit a wide range of higher-density commercial uses as-of-right. Buildings along avenues are typically taller, with commercial buildings rising to as high as 43 stories.

The Special Transit Land Use District, established in 1974, requires that developments close to the planned subway line on Second and Third avenues reserve space or easements to access potential new stations along the line. In 2003, the development site was the subject of a joint City Planning Commission (CPC) and New York City Transit Authority certification (N 040069 ZCM) that a transit easement volume is not required on the zoning lot.

The proposed zoning map amendment would add a C2-5 overlay to the existing R8B district, approximately 100 feet deep along the interior portion of the north and south frontages of East 53<sup>rd</sup> Street. Of the 27 properties that would be affected by the proposed action, 23 are fully located within the proposed overlay and R8B district. Of those 23, 19 already contain ground floor commercial uses, with the rest containing community facility uses. Of the mixed-use commercial

properties, the majority are legally nonconforming. The proposed action would bring these uses into conformance with zoning.

The development site is a 2,510-square-foot interior lot, located on the north side of East 53<sup>rd</sup> Street between Second and Third avenues. The site, which had been vacant for around 30 years, was recently improved with an as-of-right residential and community facility development. The proposed action would allow the applicant to convert the ground floor, as-of-right community facility space to a commercial use. The site consists of a 9,546-square-foot, six-story mixed-use building with a proposed ground floor commercial use (1,591 square feet) and a total of five residential units on floors two through six (7,955 square feet). The cellar would contain 2,510 sq. ft. of commercial and residential accessory space. The development has a total FAR of 3.8 and a height of 60 feet. The site is unable to achieve the maximum FAR of 4.0 due to Sliver Law regulations (ZR 23-692a), which constrain the building's maximum height to 60 feet – the width of East 53<sup>rd</sup> Street. The proposed action would facilitate a use conversion but would not change the bulk or design of the development.

Most of the mixed-use buildings in the rezoning area are relatively narrow, with 17 to 40 feet of lot width and frontage, and contain eating and drinking establishments on the ground floor with residential units above, ranging from three to six stories. The area is an active shopping and dining destination for the adjacent Midtown central business district. Previous CPC approvals, such as the 2017 Greater East Midtown Rezoning and Text Amendment (N 170186 ZRM), have recognized East 53<sup>rd</sup> Street as a commercial thoroughfare.

## **ENVIRONMENTAL REVIEW**

This application (C 180481 ZMM) 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 lead is the City Planning Commission. The designated CEQR number is 19DCP071M.

After a study of the potential environmental impacts of the proposed action, a Negative Declaration was issued on October 29, 2018. The Negative Declaration included an (E) designation to avoid the potential for significant adverse impacts related to air quality, (E-511). The requirements of the (E) designation are described in the Environmental Assessment Statement and Negative Declaration.

## **UNIFORM LAND USE REVIEW**

This application (C 180481 ZMM) was certified as complete by the Department of City Planning on October 29, 2018, and was duly referred to Manhattan Community Board 6 and the Manhattan Borough President in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

### **Community Board Public Hearing**

Community Board 6 held a public hearing for this application on December 10, 2018. On December 12, 2018, by a vote of 37 in favor and one abstention, the Community Board adopted a resolution to approve the application.

### **Borough President Recommendation**

This application (C 180481 ZMM) was considered by the Manhattan Borough President, who on January 2, 2019 recommended approval of the application.

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

On January 30, 2019 (Calendar No. 9), the City Planning Commission scheduled February 13, 2019 for a public hearing on this application (C 180481 ZMM). The hearing was duly held on February 13, 2019 (Calendar No. 42). An applicant representative testified in favor of the application, providing a summary of the requested action and describing the development site. He noted the mixed-use nature of the rezoning area along East 53<sup>rd</sup> Street.

There were no other speakers and the hearing was closed.

## **CONSIDERATION**

The Commission believes that this application for a zoning map amendment (C 180481 ZMM) is appropriate.

The proposed C2-5 overlay will allow the applicant to convert the ground floor community facility use of a new 9,546-square-foot, six-story mixed-use building at 245 East 53<sup>rd</sup> Street to commercial use, reflecting the general ground floor character of the north and south blocks of East 53<sup>rd</sup> Street between Second and Third avenues.

Establishing a C2-5 overlay district is appropriate along this part of the thoroughfare, a heavily trafficked shopping and dining destination for the adjacent Special East Midtown District.

The R8B/C2-5 zoning will more accurately reflect the mixed-use nature of this portion of East 53<sup>rd</sup> Street. Approximately 19 of the 23 properties located fully within the rezoning boundary have existing legal commercial uses that will be brought into conformance.

The proposed C2-5 overlay will also serve as a transition between the C6-6 district to the west, C1-9 district to the north and east, and the lower density, midblock R8B district between Second and Third avenues.

## **RESOLUTION**

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

**RESOLVED**, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter, that based on the environmental determination and consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is hereby amended by changing the Zoning Map, Section No. 8d, by establishing within an existing R8B District a C2-5 District bounded by a line 150 feet easterly of Third Avenue, a line midway between East 54th Street and East 53rd Street, a line 100 feet westerly of Second Avenue, a line midway between East 53rd Street and East 52nd Street, a line

160 feet easterly of Third Avenue, and East 53rd Street, Borough of Manhattan, Community District 6, as shown on a diagram (for illustrative purposes only) dated October 29, 2018 and subject to the conditions of CEQR Declaration E-511.

The above resolution (C 180481 ZMM), duly adopted by the City Planning Commission on March 13, 2019 (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*

**ALFRED C. CERULLO, III, JOSEPH DOUEK, RICHARD W. EADDY,**

**HOPE KNIGHT, ANNA HAYES LEVIN, ORLANDO MARIN,**

**LARISA ORTIZ, RAJ RAMPERSHAD**, *Commissioners*