



IN THE MATTER OF an application submitted by the NYC Educational Construction Fund and AvalonBay Communities, Inc. pursuant to Section 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 all 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 use¹ development, on property bounded by East 97th Street, First Avenue, East 96th Street and Second Avenue (Block 1668, Lot 1), in R10 and C2-8 Districts, Borough of Manhattan, Community District 11.

This application for the grant of a special permit pursuant to Section ZR 74-533 of the Zoning Resolution was filed by the applicants on January 6, 2017. The applicant seeks to waive, within a proposed mixed use² development in the transit zone, all required accessory off-street parking spaces for a building on the zoning lot. The project site is located in the East Harlem neighborhood of Manhattan, Community District 11.

RELATED ACTIONS

In addition to the requested special permit (C 170229 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:

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| C 170226 ZMM | Zoning map amendment to change existing R7-2 and R10A Districts to a C2-8 and an R10 District. |
| C 170228 ZSM | Special permit to modify bulk and open space requirements within a mixed use ³ development. |
| N 170227 ZRM | Zoning text amendment to modify lot coverage requirements and to designate a Mandatory Inclusionary Housing (MIH) area. |

¹ The hyphen was removed from "mixed use".

² The description of the development changed from "large scale general" to "mixed use".

³ The description of the development changed from "large scale general" to "mixed use".

BACKGROUND

A full background discussion and description of this application appears in the report for the related special permit action (C 170228 ZSM).

ENVIRONMENTAL REVIEW

This application (C 170228 ZSM), in conjunction with the related actions (C 170226 ZMM, N 170227 ZRM, C 170229 ZSM), 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 16ECF001M. The Lead Agency is the New York City Educational Construction Fund.

It was determined that the proposed actions may have a significant effect on the environment. A Positive Declaration was issued June 10, 2016, and distributed, published and filed. Together with the Positive Declaration, a Draft Scope of Work for the Draft Environmental Impact Statement (DEIS) was issued on June 10, 2016. A public scoping meeting was held on the DEIS on June 29, 2016. A Final Scope of Work, reflecting the comments made during the scoping, was then issued.

The applicant prepared a DEIS and the Notice of Completion for the DEIS was issued on January 17, 2017. On May 10, 2017, a public hearing was held on the DEIS pursuant to the SEQRA and other relevant statutes. A Final Environmental Impact Statement (FEIS) was completed and a Notice of Completion for the FEIS was issued on June 9, 2017. The FEIS identified significant adverse impacts with respect to transportation (traffic, transit, and pedestrians) and construction (traffic, noise and open space).

A more detailed discussion of the environmental issues and proposed mitigation measures is included in the report for the related special permit action (C 170228 ZSM).

UNIFORM LAND USE REVIEW

This application (C 170229 ZSM), in conjunction with the applications for the related actions (C 170226 ZMM and C 170229 ZSM), was certified as complete by the Department of City Planning on January 17, 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 170227 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 the application (C 170229 ZSM) on March 21, 2017 and on that date, by a vote of 26 in favor, 8 in opposition, and 2 abstentions, adopted a resolution recommending approval of the application.

A summary of the Community Board's recommendations appears in the report for the related special permit action (C 170228 ZSM).

Borough President Recommendation

This application (C 170229 ZSM) was considered by the Manhattan Borough President, who issued a recommendation approving the application with conditions on May1, 2017.

A summary of the Borough President's recommendations appears in the report for the related special permit action (C 170228 ZSM).

City Planning Commission Public Hearing

On April 26, 2016 (Calendar No. 12), the City Planning Commission scheduled May 10, 2017 for a public hearing on this application (C 170228 ZSM) and related actions. The hearing was duly held on May 10, 2017 (Calendar No. 45) in conjunction with the application for the related

actions. There were 13 speakers, as described in the report for the related special permit action (C 170228 ZSM), and the hearing was closed.

CONSIDERATION

The Commission believes that the proposed amendment to the Zoning Resolution, 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 related to the special permit action (C 170228 ZSM).

FINDINGS

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

1. Will facilitate such development or enlargement. Such finding shall be made upon consultation with the Department of Housing Preservation and Development;
2. Will not cause traffic congestion; and
3. 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

RESOLVED, by the City Planning Commission, pursuant to Section 197-c and 200 of the New York City Charter, that based on the environment determination and the consideration and findings described in this report, the application submitted by NYC Educational Construction Fund and AvalonBay Communities, Inc. pursuant to Sections 197-c and 201 of the New York City Charter for the grant of special permit pursuant to Section 74-533 of the Zoning Resolution to waive all 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 bounded by East 97th Street, First

Avenue, East 96th Street and Second Avenue (Block 1668, Lot 1), in R10 and C2-8 Districts, within a Large-Scale General Development, Borough of Manhattan, Community District 11 is approved, subject to the following conditions:

1. The application that is the subject of this application (C 170229 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 Perkins Eastman, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
Z-20	Zoning Calculations	June 19, 2017 ⁴
Z-30	Site Plan	June 19, 2017 ⁵

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. 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.

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

⁴ Date changed from June 14, 2017 to June 19, 2017.

⁵ Date changed from June 14, 2017 to June 19, 2017.

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.

5. 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 170226 ZSM), duly adopted by the City Planning Commission on June 21, 2017 (Calendar No. 22), 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, IRWIN G. CANTOR, P.E., ALFRED C. CERULLO, III,

MICHELLE DE LA UZ, JOSEPH DOUEK, RICHARD W. EADDY,

CHERYL COHEN EFFRON, HOPE KNIGHT,

ORLANDO MARÍN, *Commissioners*

ANNA HAYES LEVIN, LARISA ORTIZ, *Abstaining*