



CITY PLANNING COMMISSION

March 2, 2011 / Calendar No. 19

C110140HAM

IN THE MATTER OF an application submitted by the Department of Housing Preservation and Development (HPD):

- 1.) pursuant to Article 16 of the General Municipal Law of New York State for:
 - a) the designation of property located at 9, 11-17 Second Avenue (Block 456, Lots 27, 28 and 29) as an Urban Development Action Area; and
 - b) an Urban Development Action Area Project for such area; and
- 2.) pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer to be selected by HPD;

to facilitate the development of a 12-story mixed-use building with approximately 79 units, Community District 3, Borough of Manhattan.

Approval of three separate matters is required:

1. the designation of property located at 9, 11-17 Second Avenue (Block 456, Lots 27, 28 and 29) as an Urban Development Action Area; and
2. an Urban Development Action Area Project for such area; and
3. the disposition of such property to a developer selected by HPD.

The application for the Urban Development Action Area designation and project approval and disposition of city-owned property was submitted by the Department of Housing Preservation and Development (HPD) on November 3, 2010.

Approval of this application would facilitate the development of a 12-story mixed-use building, built pursuant to the Inclusionary Housing Program, and providing approximately 79 residential units, up to 16 of which would be permanently affordable, and ground-floor commercial space.

The Department of Housing Preservation and Development states in its application that:

The project area consists of underutilized property that tends to impair or arrest the sound development of the surrounding community, with or without tangible physical blight. Incentives are needed in order to induce the correction of these substandard, insanitary, and blighting conditions. The project activities would protect and promote health and safety and would promote sound growth and development. The project area is therefore eligible to be an Urban Development Action Area and the proposed project is therefore eligible to be an Urban Development Action Area Project pursuant to Article 16 of the

General Municipal Law.

RELATED ACTIONS

In addition to the application for the Urban Development Action Area designation and project approval and disposition of city-owned property which is the subject of this report, implementation of the proposal also requires actions by the City Planning Commission on the following application which are being considered concurrently with this application:

- C110141PQM:** Acquisition of privately-owned property.
- N110124ZCM:** Special Transit Land Use District Certification.
- N110165ZRM:** Zoning text amendment relating to the Inclusionary Housing Program.

BACKGROUND

The Department of Housing Preservation and Development (HPD) is seeking an Urban Development Action Area Project (UDAAP) designation, project approval, and disposition of city-owned property for a site located at 9, 11-17 Second Avenue (Block 456, Lots 27, 28 and 29) to facilitate the development of a 12-story mixed-use building pursuant to the Inclusionary Housing Program, providing approximately 79 residential units, up to 16 of which would be permanently affordable housing units, as well as one unit for a live-in superintendent and approximately 6,350 square feet of ground-floor commercial space. There will be outdoor recreation space of approximately 1,677 square feet on the proposed upper-floor terraces, which would be accessible to all tenants, and the project will provide approximately seven street trees.

The site is located in the East Village neighborhood of Manhattan within Community District 3 and is split between two zoning districts, a C6-2A district mapped along Second Avenue and an R8B district mapped over the midblock; it is also entirely located within an existing Special Transit Land Use District.

The project site is within an Inclusionary Housing Program Area and regulated by the underlying C6-2A zoning. As such the site permits a maximum FAR of 7.2 for residential uses, provided that 20% of the residential floor area provided is set aside for permanently affordable units. Absent any such affordable units, the site would be permitted a maximum FAR of 5.4 for

residential uses. The maximum permitted commercial FAR is 6.0, and the maximum permitted community facility FAR is 6.5. The underlying zoning also establishes building envelope controls, including a maximum building height of 120 feet, over a streetwall between 60 and 85 feet.

Land uses on the subject block and in the surrounding neighborhood are generally residential, with low- and mid-rise multi-family apartment buildings, tenements and rowhouses. Ground-floor local retail uses are located along the north-south streets. Southwest of the project site, on the same block is the Liz Christy community garden, located at the corner of East Houston Street and the Bowery. Approximately one block to the southeast, across East Houston Street, is the north portion of Sara D. Roosevelt Park. Located on the eastern portion of the block directly across Second Avenue is the First Park. The site is served by a number of bus routes that run along the avenues and East Houston Street. An entrance to the Lower East Side Second Avenue station of the F subway line is located on East Houston Street and Second Avenue, on the block immediately south of the proposed site.

The project site is comprised of three adjacent lots 27, 28 and 29, that together occupy the southwest corner of the intersection of East 1st Street and Second Avenue, on Block 456. Lots 27 and 28 would accommodate the footprint of the proposed new building, and lot 29 would transfer unused development rights as part of a proposed zoning lot merger. Overall the lot area of the Urban Development Action area is 9,843 square feet.

Lot 27, at the corner of East 1st Street and Second Avenue, is currently occupied by an existing three-story building with ground-floor commercial use and residential uses on the upper floors. Lot 28, directly adjacent to the south, is currently occupied by an existing five-story building with vacant ground-floor commercial space and residential uses on the upper floors. The proposed project includes the demolition of these two existing buildings and the construction of a new 12-story building with ground-floor commercial use and residential uses on the upper floors. The project includes approximately 79 dwelling units, up to 16 of which would be permanently affordable, as well as one unit for a live-in superintendent. The proposed new building would be built as-of-right under the bulk and density regulations of the governing C6-2A zoning and pursuant to the Inclusionary Housing Program. Permanently affordable housing would be

provided in up to 16 dwelling units under a homeownership structure, available to households earning up to 80% of Area Median Income (AMI). The proposed affordable units would first be made available to those existing residential tenants wishing to return to the site, through a process outlined by a proposed zoning text amendment (further described below). Qualifying returning households would be given the option to purchase an affordable unit at a nominal price. Households not qualifying on the basis of income would be given the option to rent an affordable unit at Inclusionary Housing Program levels, from the project's intended sponsor; upon the termination of that lease, the intended sponsor would then make the unit available for sale, again to qualifying households.

To facilitate the proposed new construction (and as further described below), HPD would acquire the site pursuant to this application and then dispose of it to the intended sponsor. Existing residential tenants of the buildings on lots 27 and 28 would be temporarily re-located during construction and given the option to return upon completion of the new building.

The proposed new building on lots 27 and 28 would be developed with a total of approximately 56,846 square feet of floor area, including approximately 10,000 square feet of transferred unused development rights from the adjacent property on lot 29. Across the entirety of the zoning lot consisting of lots 27, 28 and 29, the total FAR would be approximately 7.04.

Acquisition of Privately-Owned Property – C110141PQM

To facilitate the proposed development, privately-owned property located on Block 456, Lots 27 and 28, would be acquired by HPD to enable disposition to the project sponsor. Lots 27 and 28, which would accommodate the footprint of the proposed new building, are respectively owned by two private entities. Both properties were previously disposed to the current private owners pursuant to accelerated UDAAP approvals by the City Council. These entities took title to lot 28 in 2001 and to lot 29 in 2002. According to the deed restrictions associated with the properties' prior UDAAP approvals, future development on the sites were limited to residential uses above the ground floor which would consist of substantial rehabilitation of the existing residential units, or the construction of one to four new dwelling units on each lot. While the approvals were intended to facilitate the conservation of the two existing residential buildings on Lots 27 and 28, the buildings were never fully rehabilitated. To facilitate the proposed new construction, which

provides more housing than the original disposition, HPD intends to acquire the lots and then dispose of them to the intended sponsor.

Zoning Text Amendment – N110165ZRM

The proposed project also includes a proposed zoning text amendment, to amend Section 23-962 of the Zoning Resolution in order to accommodate the return of existing tenants who currently reside in existing buildings on the site. The proposed text amendment would apply only to Manhattan Community District 3.

As currently written the Inclusionary Housing Program regulations described in the Zoning Resolution do not anticipate the circumstances presented by the proposed project, where the existing buildings will be demolished and replaced by new construction. However, the current text does anticipate the situation of returning tenants in the case of preserving affordable housing or by substantial rehabilitation. The proposed text change would allow existing tenants in an existing affordable unit to return to a new construction homeownership unit as eligible buyers, in the same manner as the text currently allows for “grandfathered tenants” to return to rehabilitated rental units.

In this case, because the proposed project is a homeownership project, tenants would, through the text change, be given the opportunity to purchase as eligible buyers, provided they meet the income requirements, with an income of up to 80% of Area Median Income (AMI), as established in the text. If such a resident does not qualify on the basis of income, or chooses to not purchase a unit, they would still be afforded the opportunity to return, also through the proposed text change, as a renter. In this case the project sponsor would assume ownership of the affordable unit and rent it to the returning tenant at established Inclusionary Housing levels; the proposed text removes the income-qualification requirement for such a returning tenant in the case of rental. Upon termination of that tenant’s lease, the project sponsor would again make the unit available for sale to qualifying buyers.

Special Transit Land Use District Certification – N110124ZCM

The proposed project site is located within a Special Transit Land Use District mapped around the intersection of East Houston Street and Second Avenue. A Special Transit Land Use District, established to facilitate the development of the Second Avenue Subway, is located at various intersections along Second Avenue from Lower to Upper Manhattan. The proposed project involves a portion of the special district that is located at the intersection of East Houston Street and Second Avenue. The Special Transit Land Use District is mapped in the vicinity of the proposed Second Avenue subway to provide easements to facilitate pedestrian access and/or improve access of light and air to subway mezzanines and stations. Any new development or enlargement involving ground level construction within the Special Transit Land Use District is subject to an administrative approval procedure pursuant to the provisions of Section 95-04 of the Zoning Resolution. The approval process is a two-step procedure: first, a determination is made jointly by the New York City Transit Authority (TA) and the City Planning Commission (CPC) as to whether or not a transit easement volume is required, and second, should one be required, a final certification is made on the specific easement volume.

In a letter dated January 5, 2011, the MTA stated that a transit volume would be required on the project zoning lot.

ENVIRONMENTAL REVIEW

This application (C110140HAM) 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 11HPD004M. The lead agency is the Department of Housing Preservation and Development.

After a study of the potential impact of the proposed action, a Negative Declaration was issued on October 20, 2010.

Uniform Land Use Review

This application (C110140HAM), in conjunction with the related application (C110141PQM), was certified as complete by the Department of City Planning on December 13, 2010, and was duly referred to Community Board 3 and the Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b), along with the related non-ULURP applications (N110124ZCM, N110165ZRM), which were sent to Community Board 3 and the Borough President for information and review.

Community Board Public Hearing

Community Board 3 held a public hearing on this application on December 8, 2010, and on December 21, 2010, by a vote of 36 in favor and 0 opposed, adopted a resolution recommending approval of the application.

Borough President Recommendation

This application was considered by the Borough President, who issued a recommendation approving the application on February 10, 2011.

City Planning Commission Public Hearing

On January 6, 2011 (Calendar No. 6), the City Planning Commission scheduled February 16, 2011, for a public hearing on this application (C110140HAM). The hearing was duly held on February 16, 2011 (Calendar No. 28), in conjunction with the related applications (C110141PQM, N110165ZRM).

There were six speakers in favor of the application and no speakers in opposition.

Representatives of HPD, the project architect, and representatives of each of the two intended joint-partnership project sponsors spoke in favor of the project. A representative of the Manhattan Borough President's office reiterated the Borough President's support for the proposal.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that the approval of this application for an Urban Development Action Area designation and project approval, and the disposition of city-owned property, along with the related application (C110141PQM), is appropriate.

This application would facilitate the redevelopment of an existing, underutilized site, with a newly constructed, 12-story mixed-use building, which would provide approximately 79 residential units, up to 16 of which would be permanently affordable. The return of this underutilized property to productive use would enable this city-owned property to be developed with uses that would serve the needs of Manhattan Community District 3 and the City of New York.

With regard to the proposed acquisition action, pursuant to the related application (C110141PQM), the Commission notes that the deed restrictions currently in place as a result of the prior dispositions of the subject properties, for lot 27 in 2001 and for lot 28 in 2002, preclude the planned new building from being built. While the proposed building would comply in all respects with the governing bulk, density and Inclusionary Housing Program requirements, the number of units exceeds previous approvals. The Commission believes that the Inclusionary Housing Program is an effective tool for promoting the development and preservation of affordable housing in conjunction with private development of market-rate housing, and finds that the proposed project, being consistent with the overall goals of the program, is appropriate.

With regard to the proposed zoning text amendment, pursuant to the related application (N110165ZRM), the Commission notes that the current zoning text does not accommodate existing affordable housing tenants whose units would be replaced by new construction homeownership opportunities in the same manner that it does tenants whose affordable units undergo substantial rehabilitation or preservation. The latter are afforded status as “grandfathered tenants” according to the text and return to the units upon completion of the preservation or rehabilitation work. The proposed text change would provide a mechanism for existing tenants wishing to purchase a new construction unit—that would be provided on a zoning lot where their original unit previously existed—to do so as an eligible buyer. For existing tenants who do not meet the income qualifications to return as an eligible buyer, the

proposed text change would allow their return under a rental agreement with the project's intended sponsor. In that case, the project sponsor would assume ownership of the unit in question. Upon termination of the subject lease, the sponsor would make the unit available for sale into the homeownership structure, to eligible buyers at Inclusionary Housing Program levels.

The Commission notes that the existing on-site affordable housing tenants would be unable to return to the project site absent the proposed text change. The Commission further notes that the proposed change is consistent with the established requirements for grandfathered tenants in affordable housing units under rental agreements, and for units undergoing preservation or substantial rehabilitation. The Commission therefore finds that the proposed text amendment is appropriate.

RESOLUTION

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

WHEREAS, the Department of Housing Preservation and Development has recommended the designation of property located at 9, 11-17 Second Avenue (Block 456, Lots 27, 28 and 29), as an Urban Development Action Area; and

WHEREAS, the Department of Housing Preservation and Development has also recommended the approval of an Urban Development Action Area Project for such property;

THEREFORE, BE IT FURTHER RESOLVED, that the City Planning Commission after due consideration of the appropriateness of the actions, certifies its unqualified approval of the following matters pursuant to the Urban Development Action Area Act;

- a. the designation of property located at 9, 11-17 Second Avenue (Block 456, Lots 27, 28 and 29) as an Urban Development Action Area; and
- b. an Urban Development Action Area Project for such area; and

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

described in this report, the application of the Department of Housing Preservation and Development for the disposition of property located at 9, 11-17 Second Avenue (Block 456, Lots 27, 28), Community District 3, Borough of Manhattan, to a developer selected by HPD, is approved.

The above resolution (C110140HAM), duly adopted by the City Planning Commission on March 2, 2011 (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.

AMANDA M. BURDEN, FAICP, Chair

KENNETH J. KNUCKLES, Esq., Vice Chairman

ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E.,

ALFRED C. CERULLO, III, BETTY Y. CHEN, MARIA M. DEL TORO,

RICHARD W. EADDY, ANNA HAYES LEVIN

SHIRLEY A. MCRAE, KAREN A. PHILLIPS, Commissioners

Community/Borough Board Recommendation

CITY PLANNING COMMISSION
22 Reade Street, New York, NY 10007
FAX # (212) 720-3356

Application # **C 110140 HAM**
CEQR # **11HPD004M**
Community District No. 03 Borough: Manhattan
Community District No. ___ Borough: _____
Project Name: **9-17 Second Avenue**

INSTRUCTIONS

1. Complete this form and return one copy to the Calendar Information Office, City Planning Commission, Room 2E, at the above address.

2. Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:

IN THE MATTER OF an application submitted by the Department of Housing Preservation and Development (HPD):

- 1) pursuant to Article 16 of the General Municipal Law of New York State for:
 - c) the designation of property located at 9-17 Second Avenue (Block 456, Lots 27, 28, and 29); as an Urban Development Action Area; and
 - d) an Urban Development Action Area Project for such area; and
- 3) pursuant to Section 197-c of the New York City Charter for the disposition of such property, to a developer to be selected by HPD;

to facilitate the development of a 12-story mixed-use building with approximately 79 residential units.

Applicant(s):

Department of Housing Preservation and Development
100 Gold Street
NY, NY 10038

Applicant's Representative:

Miriam Gonzalez
Department of Housing Preservation and Development
100 Gold Street
New York, New York 10038

Community Board No. 3 Borough: **Manhattan**

Borough Board

Date of public hearing: 12/8/10

Location: COMMUNITY BOARD #3 OFFICE
59 E. 4TH ST., NEW YORK, NY 10003

Was a quorum present? YES NO

A public hearing shall require a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.

Vote adopting recommendation taken: 12/21/10

Location: P.S. 20
166 ESSEX ST., NEW YORK, N.Y. 10003

RECOMMENDATION

Approve

Approve With Modifications/Conditions

Disapprove

Disapprove With Modifications/Conditions

Explanation of Recommendation-Modification/Conditions (Attach additional sheets if necessary)

Voting

In Favor: 36 Against: 0 Abstaining: 0

Total members appointed to the board: 50

[Signature]
Community/Borough Board Officer

[Signature]
Title

Date

Jan 11, 2011

v.012006w

Community/Borough Board Recommendation

CITY PLANNING COMMISSION
22 Reade Street, New York, NY 10007
FAX # (212) 720-3356

Application # C 110141 PQM
CEQR # 11HPD004M
Community District No. 03 Borough: Manhattan
Community District No. ___ Borough: _____
Project Name: 9, 11-17 Second Avenue

INSTRUCTIONS

1. Complete this form and return one copy to the Calendar Information Office, City Planning Commission, Room 2E, at the above address.

2. Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:

IN THE MATTER OF an application submitted by the Department of Housing Preservation and Development, pursuant to Section 197-c of the New York City Charter for the acquisition of property located at 9, 11-17 Second Avenue (Block 456, Lots 27 and 28), Borough of Manhattan, Community District 3.

Applicant(s):

NYC Dept of Housing Preservation & Development
100 Gold Street
New York NY 10038

Applicant's Representative:

Miriam Gonzalez
212-863-6555

Community Board No. 3 Borough: Manhattan

Borough Board

Date of public hearing: 12/8/10

Location: COMMUNITY BOARD #3 OFFICE
59 E. 4TH ST., NEW YORK, NY 10003

Was a quorum present? YES NO

A public hearing shall require a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.

Vote adopting recommendation taken: 12/21/10

Location: P.S. 20
166 ESSEX ST., NEW YORK, NY 10003

RECOMMENDATION

Approve

Approve With Modifications/Conditions

Disapprove

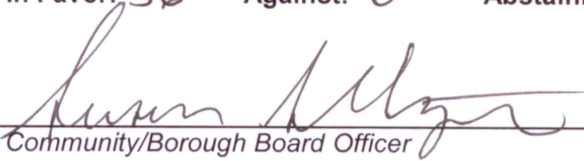
Disapprove With Modifications/Conditions

Explanation of Recommendation-Modification/Conditions (Attach additional sheets if necessary)

Voting

In Favor: 36 Against: 0 Abstaining: 0

Total members appointed to the board: 50


Community/Borough Board Officer


Title

Date

Jan 11, 2011

v.012006w



THE CITY OF NEW YORK
OFFICE OF THE PRESIDENT
BOROUGH OF MANHATTAN

SCOTT M. STRINGER
BOROUGH PRESIDENT

February 10, 2011

Recommendation on
Application Nos. C 110141 PQM, C 110140 HAM and N 110165 ZRM
9, 11 -17 Second Avenue
by the Department of Housing Preservation and Development

PROPOSED ACTIONS

The Department of Housing Preservation and Development (“HPD”) seeks approval for the **acquisition (C 110141 PQM)** of two privately-owned properties located at 9 and 11-17 Second Avenue (Block 456, Lots 27 and 28), and the designations of these properties as an **Urban Development Action Area (“UDAA”)** and an **Urban Renewal Action Area Project (“UDAAP”)**. In addition, HPD seeks approval of the **disposition (C 110140 HAM)** of the designated properties to the project sponsor, BFC Partners (“BFC”). The proposed actions are sought to facilitate the re-development of the subject site with a 12-story primarily residential building. The proposed new development will be located within an Inclusionary Housing Designated Area and a Special Transit Land Use District in Manhattan Community District 3.

HPD has also filed a related application for a **Zoning Text Amendment (N 110165 ZRM) to Section 23-90 of the Zoning Resolution (Inclusionary Housing)** to facilitate the return of existing onsite tenants to affordable housing units to be constructed at the project site.

City-owned properties that are no longer in use or are in deteriorated or deteriorating condition are eligible to be designated as UDAA and UDAAP, pursuant to the Urban Development Area Act (Article 16 of the State General Municipal Law). UDAA and UDAAP provide incentives for private enterprise to correct substandard, unsanitary and/or blighted conditions. According to New York State General Municipal Law § 694(4), to receive a UDAA and/or UDAAP designation the City Planning Commission and the City Council must find that:

- (a) the present status of the area tends to impair or arrest the sound growth and development of the municipality;
- (b) the financial aid in the form of tax incentives, if any, to be provided by the municipality pursuant to [the Urban Development Area Act] ... is necessary to enable the project to be undertaken; and

(c) the area designation is consistent with the policy and purposes [of the Urban Development Area Act].

Section 197-c of the New York City Charter (“Charter”) mandates that the disposition of all City-owned real property and the acquisition of property by the City be subject to the Uniform Land Use Review Procedure (“ULURP”). There are no specific findings that must be met to make a property eligible for acquisition or disposition under Section 197-c.

PROJECT DESCRIPTION

HPD seeks to acquire two properties at 9 and 11-17 Second Avenue and to designate said properties as UDAA and UDAAP in order to facilitate the construction of a new, 12-story, primarily residential development with ground-floor retail uses. Both properties were previously disposed by the City to their current owners through accelerated UDAAP approvals. BFC acquired Lot 27 (11-17 Second Avenue) in 2001 as part of the Asset Sales Program and the Urban Homesteading Assistance Board (“UHAB”) acquired Lot 28 (9 Second Avenue) in 2002 as part of the Tenant Interim Lease Program. As part of the previous dispositions, the properties have deed restrictions that limit the type of development permitted on the sites. Under the existing restrictions, development is limited to either rehabilitation of existing dwelling units or the construction of one to four dwellings units. Consequently, the proposed development would not be permitted. HPD’s acquisition of the two properties would facilitate the modification of the restrictive declarations that currently limit development on the site.

The project site is located at the southwest corner at Second Avenue and East First Street. 11-17 Second Avenue is a three-story mixed-use building with four dwelling units (with 4 residents) and two commercial units (a bar and a locksmith); the building’s commercial and residential spaces are occupied. 9 Second Avenue is a five-story, mixed-use building with five of its eight residential units occupied (with 8 residents) and one vacant commercial unit. The residents at the subject properties are currently all renters. The proposed development plan would require the demolition of the two existing buildings, relocation of residential tenants, and vacating the commercial units. Relocation agreements have been reached with the residential tenants who intend to return to the site upon completion of the new building. Currently, the commercial tenants have month-to-month leases and are aware of construction plans as they have been reached out to by BFC. They would vacate their units upon notice by BFC.

The surrounding land uses are primarily three- to six-story, tenement style, walk-up buildings and mixed-use buildings with retail establishments on the ground floors and residential units on the upper floors. Ground-floor commercial establishments primarily consist of clothing stores, restaurants, and bars. Other land uses in the area include community gardens, local parks, warehouses, light industrial buildings, and a number of public and private schools. In addition, the area is marked by mixed-use developments constructed in recent years that are larger in size and bulk than much of the surrounding neighborhood, including a 14-story, mixed-use building located on the south side of Houston Street adjacent to the project site and a 9-story, mixed-use building just west of the project site on the same block. To the north of the proposed development on East First Street are newly constructed, 6- and 7-story residential buildings. This part of the neighborhood experiences steady pedestrian and vehicular traffic due to the

area's existing land uses along with the project site's access to nearby mass transit and location on a major street.

The project site is located in a C6-2A zoning district and within an Inclusionary Housing Designated Area, which were established as part of the East Village/Lower East Side Rezoning in 2008. C6-2A zoning districts permit a FAR of 6.0 for commercial uses and 6.5 for community facility uses. The base residential FAR is 5.4 with a maximum residential FAR of 7.2 if a development provides 20 percent of the floor area as permanently affordable housing. The permitted street wall height is 60 to 85 feet, and the maximum building height permitted is 120 feet.

The proposed development will consist of 56,847 SF of zoning floor area (5.78 FAR) and will utilize the inclusionary housing bonus as well as development rights from an adjacent property (7 Second Avenue, Lot 29)¹. The project will contain approximately 79 new apartment units, of which 16 units will be inclusionary housing units. The permanently affordable units will consist of one- and two-bedroom apartments that are homeownership housing units targeted to households earning up to 80 percent of AMI. The building's remaining units will be market-rate rental apartments consisting of one-bedroom units and studios. The proposed development will also have approximately 6,350 SF of ground-floor commercial space. The building would be constructed under as-of-right bulk regulations, reaching a height of approximately 120 feet and an approximate street wall height of 80 feet.

The existing tenants at 9 and 11-17 Second Avenue would relocate, at the expense of BFC, during the construction phase of the project, which is anticipated to begin in early 2011 and continue for an 18- to 24-month period. According to relocation agreements with the onsite tenants, BFC would provide a 30-day notice of when demolition will begin. BFC would also be required to help tenants find housing and provide them with a monthly rental allowance of \$2,000 until construction is completed. Additionally, all costs associated with the relocation, such as moving and storage, would be reimbursed by BFC.

UHAB, the administering agent and non-profit partner for the proposed development, is an organization that promotes the preservation of affordable housing through the rehabilitation of dilapidated multi-unit dwellings. UHAB's responsibilities for the proposed project will include assisting residents during the relocation process and their return upon the completion of the building. A dedicated UHAB staff member will help relocated tenants find apartments, arrange the move to and from the new building, and handle the rental payment to the interim landlord. Further, UHAB will administer the sale and resale of the proposed development's affordable housing units.

In order to ensure that existing site tenants may return to the proposed development, HPD proposes to amend ZR § 23-962 (Additional Requirements for Homeownership Affordable Housing) to modify the regulations of new construction homeownership housing under the Inclusionary Housing Program ("IHP"). Although current IHP provisions address the presence of existing tenants in proposed preservation and substantial rehabilitation projects, they do not

¹ The three combined lots (Block 456, Lots 27, 28, and 29), comprising a single zoning lot, would have a total lot area of 9,843 SF. The zoning lot would have an FAR of 7.03 with the addition of proposed development.

address the presence of existing onsite tenants for new construction homeownership projects. The proposed text creates new provisions to ensure tenants living in an existing building, which will be demolished for a new IHP homeownership development, will be able to occupy the new affordable units upon the project's completion. The tenants may return as either renters or homeowners, if the tenants income qualify for the homeownership opportunity. If existing residents chose not to buy a unit or did not income qualify for the units, they would be able to occupy the homeowner units as renters. BFC would retain ownership of any affordable unit, which is occupied as a rental unit. Additionally, BFC is planning to dispose the units to the tenants at a nominal value in recognition of the "sweat equity" they have already invested in the existing building. As such, the proposed text amendment is necessary to allow the resale price of the affordable units to be based on the standard IHP levels and not the nominal initial sale amount. The proposed amendment would only apply to existing buildings, with average rent that does not exceed the low-income limit, located within UDAAP-designated sites in Manhattan Community District 3.

In addition to the requested approvals, the applicant has submitted an application to the Metropolitan Transportation Authority New York City Transit and the Department of City Planning requesting certification on whether a transit easement volume is necessary at the proposed site pursuant to ZR § 95-04.² The applicant will dedicate approximately 1,366 SF of project space for the transit easement, as required by the regulations of the Special Transit Land Use District, if found necessary.

COMMUNITY BOARD'S RECOMMENDATION

At its Full Board meeting on December 21, 2010, Manhattan Community Board 3 voted unanimously to approve this application by a vote of 36 in favor.

BOROUGH PRESIDENT'S COMMENTS

HPD's acquisition and disposition of the subject properties will facilitate sound growth in the neighborhood, which is necessary for UDAA and UDAAP designations. The creation of new housing stock that includes permanently affordable units will provide a public benefit and represents an appropriate use of City-owned land. Further, the proposed development permanently preserves affordable housing and prevents the displacement of long-time community residents, which are important community goals.

The proposed mixed-use development will preserve and upgrade affordable housing in the neighborhood as well as provide additional affordable dwelling units available on the site. The project's new amenities and upgraded features will be significant improvements over the deteriorated conditions of the existing buildings and will offer tenants the opportunity to return to safer and more habitable spaces. The existing tenants will also be able to access new residential amenities, such as elevators in the building, new washers and dryers in all the units, bike storage space, and the possible addition of outdoor space for all the tenants.

² The application requesting certification was submitted December 16, 2009. Both MTA NYC Transit and CPC have 60 days to respond as to whether a transit easement volume is necessary at the subject site.

In order to achieve the new development, the proposed text amendment is necessary. The text primarily aims to protect existing tenants from displacement by guaranteeing them the right to return after the new construction is completed. The proposed text amendment provides the flexibility necessary to ensure the protection of existing tenants and is consistent with zoning provisions currently in place for developers who choose a ‘preservation’ development option under the inclusionary housing program. In effect, the proposed text will allow new construction to be utilized as a ‘preservation’ tool for existing residents. As such, the text meets the important community and City-wide goal of encouraging new affordable housing development while protecting existing residents from displacement.


Furthermore, the proposed development will ensure that the existing tenants return to new housing in first class sound condition. The existing tenants are longstanding members of the community and are inextricably linked to the development and success of the area. These tenants remained in the neighborhood during a period of substantial disinvestment by property owners and actively worked to improve their housing and the larger community. As such, the protection of their right to return not only preserves their individual housing options, but also helps maintain the existing character of the neighborhood. Although relocation housing has not been selected at this point, UHAB has substantial experience with temporary tenant relocation, and their involvement should ensure that a smooth, minimally disruptive process occurs.

Further, the developer also intends to incorporate sustainable construction practices and green design elements in this project. Sustainable practices and elements will include: installations of Energy Star products; high efficiency lighting fixtures; regulated water-efficient fixtures; the use of no- or low-VOC paints, adhesives and sealants; and to incorporate materials with a high recycled and regional content as much as possible and where appropriate. As such, the proposed project will contribute to environmentally sustainable development within the neighborhood.

BOROUGH PRESIDENT’S RECOMMENDATION

The proposed development meets the required findings of a UDAA and UDAAP designation and is an appropriate disposition of City-owned land. In addition, the proposed zoning text amendment is necessary for the continual protection of tenants and affordable housing and the creation of new and upgraded housing stock in the community.

Therefore, the Manhattan Borough President recommends approval of ULURP Application Nos C 110141 PQM, C 110140 HAM, and N 110165 ZRM.



Scott M. Stringer
Manhattan Borough President