



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

- 1) pursuant to Article 160 of the General Municipal Law of New York State for:
 - a) The designation of property located at 2405 Frederick Douglass Boulevard (Block 1955, Lot 16) 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 a 15-story mixed-use building containing residential, retail and community facility space, in Borough of Manhattan, Community District 10.

Approval of the three separate matters is required:

1. The designation of property located at 2405 Frederick Douglass Boulevard (Block 1955, Lot 16) 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 the Department of Housing Preservation and Development (HPD).

The application for the Urban Development Action Area designation and project approval and disposition of City-owned property (C 170085 HAM) was submitted by the NYC Department of Housing Preservation and Development (HPD) on September 8, 2016. The proposed action, in conjunction with several related actions, will facilitate the development of a 15-story mixed-use building containing approximately 74 affordable dwelling units, approximately 7,341 square feet of commercial space and approximately 290 square feet of community facility space in the Central Harlem neighborhood of Manhattan, Community District 10.

RELATED ACTIONS

In addition to this application for the designation and approval of the subject property as an Urban Development Action Area Project (UDAAP) and the disposition of City-owned property (C

170085 HAM), 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 170081 ZMM Zoning Amendment Map to change an existing R7-2/C1-4 district to an R8A/C2-4 district;

- N 170082 ZRM Zoning Text Amendment to a designate Mandatory Inclusionary Housing Area; and

- N 170083 ZAM CPC Authorization to modify maximum building height for a building containing a FRESH food store.

BACKGROUND

The NYC Department of Housing Preservation and Development (HPD) requests approval of an Urban Development Action Area Project (UDAAP) and disposition of property to facilitate the construction of the Frederick, a mixed-use development in the Central Harlem neighborhood of Community District 10, Manhattan.

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

The City owned Development Site is proposed for disposition to a developer to be selected by HPD. The Development Site consists of underutilized vacant properties, which tend to impair or arrest the sound development of the surrounding community, with or without tangible 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. Therefore, the Development Site is eligible to be an Urban Development Action Area, and the proposed project is eligible to be an Urban Development Action Area Project, pursuant to Article 16 of the General Municipal Law.

The area subject to the proposed zoning map amendment comprises eight tax lots (9, 10, 11, 12, 14, 16, 17 and a portion of Lot 7) on Block 1955 in the Central Harlem neighborhood, on the west side of Frederick Douglass Boulevard between West 128th and West 129th streets.

The neighborhood surrounding the project area features a variety of building types including tenement houses, brownstones, mid-rise residential buildings, and “tower in the park” high-rises. Residential and commercial uses are characteristic of this part of Frederick Douglass Boulevard, with many four-and five-story mixed-use buildings with commercial uses on the ground floor and residential uses above.

The block immediately to the south of the project area (Block 1954) was the subject of a 2008 rezoning (C 080219 ZMM) from an R7-2/C1-4 district to an R8A/C2-4 district. Since that time, some mixed-use buildings with ground floor commercial uses have been developed on that block. Several 14-story NYCHA developments are situated immediately east of the project area.

The surrounding area also includes educational and recreational facilities such as the Harlem Children’s Zone Promise Academy, City College, and Columbia University as well as the 23-acre St. Nicholas Park. It is well-served by transit, including access on 125th Street to the A, C, B, D, 2 and 3 subway lines and bus lines including the M10, running along Frederick Douglass Boulevard; the M3, running along St. Nicholas Avenue and Manhattan Avenue to Cathedral Parkway (West 110th Street) and then south along Fifth Avenue; and the Bx15, M100, M60, M104 and M101.

R7-2 is the primary zoning district in the surrounding area but there are also R7A, R8, R8A, and various commercial districts. Height factor regulations in R7 districts encourage low buildings on smaller lots and taller buildings with low lot coverage on bigger lots. R7 districts have a maximum residential floor area ratio (FAR) of 3.44 (or 4.0 pursuant to Quality Housing regulations) and a maximum community facility FAR of 6.5. Districts with commercial overlays have a maximum commercial FAR of 2.

The proposed development site comprises two privately-owned lots (12 and 14) and one vacant City-owned lot (16) and has a total area of approximately 9,625 square feet of lot area. Lot 12 is currently occupied by a 4,000 square foot supermarket that will be demolished. Lot 14 is occupied by a partially demolished building. Lot 16 has been vacant for at least 26 years and the UDAAP and disposition of Lot 16 will facilitate the development of this long underutilized parcel. The site is located within a FRESH Program area and is therefore eligible for zoning and tax incentives related to the program. Lots 12, 14 and 16 will be combined to facilitate the development of an approximately 7,431-square-foot FRESH food supermarket.

The proposed development would be 15-story mixed-use building with residential, commercial and community facility uses and a FRESH supermarket on the ground floor. The project will have a total floor area of approximately 76,608 square feet, including approximately 68,120 square feet of residential floor area, 8,198 square feet of commercial floor area, and 290 square feet of community facility floor area. It will contain approximately 74 affordable units, with a mix of studios and one-, two- and three-bedroom apartments. The building's base will rise to approximately 100 feet before setting back ten feet, except for a dormered portion. The dormered portion, at the southern end of the building, will be approximately 43.5 feet wide and rise three stories above the base. The maximum building height will be 150 feet. All proposed uses will be accessible from Frederick Douglass Boulevard.

As per the Mandatory Inclusionary Housing (MIH) program, permanently affordable housing is required within new residential development, enlargements, and conversions from non-residential to residential uses within a mapped Mandatory Inclusionary Housing Area (MIHA). In adherence to the MIH program, the applicant is proposing Option One under the MIH program. This option requires that 25 percent of the residential floor area be affordable to households at an average of 60 percent of the area median income (AMI) and at least 10 percent of the residential floor area would be affordable to households at or below 40 percent of the AMI.

In order to facilitate the proposed development, the applicant is seeking a UDAAP designation and project approval, and the disposition of one City-owned property.

Several related actions are also required to facilitate the proposed development, including a zoning map amendment (C 170081 ZMM); a zoning text amendment (N 170082 ZRM) to designate the proposed rezoning area as a Mandatory Inclusionary Housing Area; and a zoning authorization pursuant to Section 63-22 (N 170083 ZAM) to allow an increase in the maximum building height from 145 feet to 150 feet.

Zoning Map Amendment (C 170081 ZMM)

The zoning map amendment would change the current R7-2/C1-4 zoning district to an R8A/C2-4 district to a depth of 100 feet along Frederick Douglass Boulevard between West 128th and West 129th streets. R8A is a contextual zoning district that permits a street wall height of 75-105 feet and a maximum building height of 145 feet or 14 stories. The floor area bonus available for inclusionary housing increases the maximum residential FAR in an R8A district from 3.44 (or 4.0 pursuant to Quality Housing regulations) to 7.2. The maximum community facility FAR would remain the same as under the existing zoning. The proposed change in the commercial overlay from C1-4 to C2-4 would not increase commercial FAR; instead, it would allow a wider variety of commercial uses.

Zoning Text Amendment (N 170082 ZRM)

The applicant proposes a zoning text amendment to designate the project area as a Mandatory Inclusionary Housing Area. The applicant has requested to incorporate Option 1, which requires that at least 25 percent of the residential floor area shall be provided as housing affordable to households at an average of 60 percent of AMI and at least ten percent affordable to households at 40 percent of AMI.

Zoning Authorization (N 170083 ZAM)

The applicant is also seeking a CPC authorization, pursuant to Section 63-22 of the Zoning Resolution, to increase the maximum building height for a FRESH food store by 15 feet. The zoning bonus permitted by the FRESH program will allow a maximum permitted FAR of 7.95, which is the FAR of the proposed building.

ENVIRONMENTAL REVIEW

This application (C 170085 HAM), in conjunction with the related actions (C 170081 ZMM, N 170082 ZRM, and N 170083 ZAM), 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 16HPD152M. The Lead Agency is the Department of Housing Preservation and Development.

After a study of the potential environmental impacts of the proposed action, a Negative Declaration was issued on September 15, 2016.

The proposed action would be implemented in conformance with the following provision in order to ensure that there are no significant adverse impacts. The provisions are as follows:

Hazardous Materials

With regard to the projected and potential development sites within the Project Area (Block 1955, Lots 7, 9, 10 and 11) which are not under HPD or the project sponsor's control, an (E) designation would be placed on these properties in connection with the zoning map amendment to ensure there would be no significant adverse impacts associated with hazardous materials. The (E) designation program is administered by OER. The (E) designation mapped on Lots 7, 9, 10, and 11 in connection with the Proposed Actions indicates the presence of an environmental requirement which must be satisfied at OER prior to issuance of any building permits from the Department of Buildings. The (E) designation number is [E-394].

The hazardous materials text for the (E) designation [E-394] to be placed on Lots 7, 9, 10 and 11 is as follows:

Task 1

The fee owners of the lots restricted by this (E) designation will be required to prepare a scope of work for any soil, soil gas, or groundwater sampling and testing needed to determine if contamination exists, the extent of the contamination, and to what extent remediation may be required. The scope

of work will include all relevant supporting documentation, including site plans and sampling locations.

This scope of work will be submitted to OER for review and approval prior to implementation. It will be reviewed to ensure that an adequate number of samples will be collected and that appropriate parameters are selected for laboratory analysis.

No sampling program may begin until written approval of a work plan and sampling protocol is received from OER. The number and location of sample sites should be selected to adequately characterize the type and extent of the contamination, and the condition of the remainder of the site. The characterization should be complete enough to determine what remediation strategy (if any) is necessary after review of the sampling data. Guidelines and criteria for choosing sampling sites and performing sampling will be provided by OER upon request.

Task 2

A written report with findings and a summary of the data must be presented to OER after completion of the testing phase and laboratory analysis for review and approval. After receiving such test results, a determination will be provided by OER if the results indicate that remediation is necessary.

If OER determines that no remediation is necessary, written notice shall be given by OER. If remediation is necessary according to test results, a proposed remediation plan must be submitted to OER for review and approval. The fee owners of the lots restricted by this (E) designation must perform such remediation as determined necessary by OER. After completing the remediation, the fee owners of the lots restricted by this (E) designation should provide proof that the work has been satisfactorily completed.

An OER-approved construction-related health and safety plan would be implemented during excavation and construction activities to protect workers and the community from potentially significant adverse impacts associated with contaminated soil and/or groundwater. This Plan would be submitted to OER for review and approval prior to implementation.

Noise

With regard to the projected and potential development sites within the Project Area (Block 1955, Lots 7, 9, 10 and 11) which are not under HPD or the project sponsor's control, an (E) designation would be placed on these properties in connection with the zoning map amendment to ensure there would be no significant adverse impacts

associated with noise. The (E) designation program is administered by OER. The (E) designation mapped on Lots 7, 9, 10, and 11 in connection with the Proposed Actions indicates the presence of an environmental requirement which must be satisfied at OER prior to issuance of any building permits from the Department of Buildings. The (E) designation number is [E-394].

The noise text for the (E) designation [E-394] to be placed on Lots 7, 9, 10 and 11 is as follows:

In order to ensure an acceptable interior noise environment, future residential uses must provide a closed-window condition with a minimum of 28 dBA window/wall attenuation on all façades in order to maintain an interior noise level of 45 dBA. In order to maintain a closed-window condition, an alternate means of ventilation must also be provided.

Air Quality

For the projected and potential development sites within the Project Area (Block 1955, Lots 7, 9, 10 and 11) which are not under HPD or the project sponsor's control, an (E) designation would be placed on these properties in connection with the zoning map amendment to ensure there would be no significant adverse impacts associated with stationary source air quality. The (E) designation program is administered by OER. The (E) designation mapped on Lots 7, 9, 10, and 11 in connection with the Proposed Actions indicates the presence of an environmental requirement which must be satisfied at OER prior to issuance of any building permits from the Department of Buildings. The (E) designation number is [E-394].

The air quality text for the (E) designation [E-394] to be placed on Lots 7, 9, 10 and 11 is as follows:

Block 1955, Lot 7:

Any new development on the above-referenced property must ensure that the heating, ventilating and air conditioning stack(s) is located at least of 26 feet from the lot line facing Frederick Douglass Boulevard and the building must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 1955, Lot 9:

Any new development on the above-referenced property must ensure that the heating, ventilating and air conditioning stack(s) is located at least 40 feet from lot line(s) facing Frederick Douglass Boulevard and the building must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 1955, Lots 10 & 11:

Any new development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

UNIFORM LAND USE REVIEW

This application (C 170085 HAM), in conjunction with the related action (C 170081 ZMM), was certified as complete by the Department of City Planning on September 19, 2016, and was duly referred to Community Board 10 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 170082 ZRM), and a zoning authorization (N 170083 ZAM), which were referred for information and review in accordance with the procedures for non-ULURP matters.

Community Board Public Hearing

Community Board 10 held a public hearing on this application (C 170085 ZRM) on November 2, 2016 and on that date, by a vote of 15 in favor, 13 in opposition, and 0 abstentions, adopted a resolution recommending approval of the application with the conditions that the developer conduct a robust marketing campaign alerting area residents to available units that results in at least 50 percent of the units being occupied by residents of CB10, and that the developer hire an ombudsman to assist potential tenants with the application process.

Borough President Recommendation

This application (C 170085 HAM) was considered by the Manhattan Borough President, who issued a recommendation approving the application on December 28, 2016 with the condition that the regulatory agreement for the affordable units not subject to MIH is for a term of not less than 50 years.

City Planning Commission Public Hearing

On December 12, 2016 (Calendar No. 11), the City Planning Commission scheduled January 4, 2017, for a public hearing on this application (N 170085 HAM) and related actions. The hearing was duly held on January 4, 2017 (Calendar No. 19), in conjunction with the applications for the related actions.

Four members of the applicant team spoke in favor of the project. The team included a representative from HPD; the developer, 2395 FDB JV, LLC; the architect; and the proposed supermarket operator. The team provided a history of the site and an overview of the proposed development. The developer described how the project would continue retail continuity along Frederick Douglass Boulevard, while providing additional opportunities for affordable housing. The developer acknowledged that the proposed community facility space is very small but stated that it was included at the request of the community board and the council member. The developer also acknowledged the concerns raised by the community board regarding the outreach and marketing for the proposed building. The developer publicly stated that his team will provide a robust, community-targeted marketing strategy and ombudsman services to assist CB10 residents with the application process. The HPD representative discussed project financing and the proposed level of affordability. He stated that this project would be affordable to very low-income households and financed under their Extremely Low and Low Income Affordability (ELLA) program. The architect talked about the building's design and how the proposed authorization would allow the new FRESH Food supermarket. The proposal would increase the size of the existing supermarket and increase its floor-to-ceiling height. The store operator, who also operates the smaller existing grocery store on the development site, talked about how the larger space would enable him to expand the store's offerings, and said that although this store would be closed during construction, he would focus on another of his outlets, in the Bronx.

A representative from the community board and a representative from the Manhattan Borough President's Office spoke in favor of the proposed project. The community board's representative noted that Community Board's 10 Land Use Committee had unanimously supported the project and stated that the full committee vote took place at a time when a lot of new members had recently taken up their posts and were considering a long list of agenda items. The Borough President's representative reiterated the condition, associated with the recommendation, that HPD extend the regulatory agreement for the affordable units to a term of no less than 50 years.

There were no other speakers, and the hearing was closed.

CONSIDERATION

The Commission believes that this application (C 170085 HAM), in conjunction with the related actions (C 170081 ZMM, N 170082 ZRM, and N 170083 ZAM), is appropriate.

The proposed Urban Development Action Area designation, project approval and disposition of City-owned property will facilitate development on an underutilized property and provide much-needed affordable housing, as well as community facility space and improved access to fresh food on City-owned land close to mass transit, public services and retail.

The proposed project will provide approximately 74 affordable apartments and financed under HPD's Extremely Low and Low Income Affordability (ELLA) program with approximately 90 percent of the units made affordable to households at or below 60 percent of the AMI. The Commission believes that this project will help to meet the significant affordable housing needs in Manhattan Community Board 10.

The proposed project will also include an approximately 7,431-square-foot FRESH food supermarket that will enhance neighborhood residents' access to fresh produce, meats and non-perishable goods. It will improve the appearance and quality of the existing supermarket by increasing its size and floor-to-ceiling height. The ground floor retail along Frederick Douglass

Boulevard will provide commercial continuity and serve as a crucial link to the nearby 125th Street commercial corridor.

The related application for a zoning map amendment (C 170081 ZMM) is appropriate. The proposed R8A district is consistent with the zoning and development patterns found in the surrounding area. The extra height allowed by the R8A zoning district will facilitate more affordable housing units at a scale compatible with existing developments nearby, and the proposed district is consistent with zoning along other wide streets in the surrounding area, including St. Nicholas Avenue and the block of Frederick Douglass Boulevard just south of the development site. The broader range of commercial uses allowed under the C2-4 overlay will enable a wider variety and better quality of services for the neighborhood and help to activate the street.

The proposed zoning text amendment (N 170082 ZRM) is appropriate. Designating the project area as a Mandatory Inclusionary Housing Area will ensure permanent affordability for a portion of the units on the site. Option 1 requires that at least 25 percent of the residential floor area shall be provided at an average of 60 percent AMI.

The Commission acknowledges the concerns raised by the community board and the Manhattan Borough President regarding the marketing of the proposed building, ombudsman services and the extension of the regulatory agreements for the affordable units to 50 years. The Commission is encouraged that HPD and developer will continue to work with the community to address their concerns raised in the recommendation. In a letter dated January 27, 2017, HPD advised the Commission that they are “seeking to increase the amount of permanent affordable units while maintaining the financial feasibility of the project.”

The Commission was also encouraged to hear that the operator of the proposed FRESH store has so much experience in the food business, and in this neighborhood, and had been so deeply involved in the project. These factors, and the long-term lease that the applicant team stated would be signed upon completion of the grocery store buildout, will boost the potential viability of the store. The Commission also noted the breakdown of the Community Board vote, and was pleased

that a representative appeared at the public hearing to discuss the context and explain that the project was unanimously supported by CB10's Land Use Committee.

The Commission therefore finds that the proposed Urban Development Action Area designation, project approval, and the related disposition, are 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 2405 Frederick Douglass Boulevard (Block 1955, Lot 16) in Community District 10, Borough of Manhattan, 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 area;

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 2405 Frederick Douglass Boulevard (Block 1955, Lot 16) as an Urban Development Action Area; and
- b) An Urban Development Action Area Project for such area;

to facilitate a 15-story mixed-use building containing residential, retail and community facility space, in Borough of Manhattan, Community District 10; and

BE IT FURTHER RESOLVED, by 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 City-owned property located at 2405 Frederick Douglass (Block 1955, Lot 16) in Community District 10, Borough of Manhattan, to a developer to be selected by the Department of Housing Preservation and Development, is approved (C 170085 HAM).

The above resolution (C 170085 HAM), duly adopted by the City Planning Commission on February 1, 2017 (Calendar No. 16), 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.

CARL WEISBROD, Chairman
KENNETH J. KNUCKLES, ESQ., Vice Chairman
IRWIN G. CANTOR, P.E., ALFRED C. CERULLO, III,
MICHELLE DE LA UZ, JOSEPH DOUEK, RICHARD W. EADDY,
CHERYL COHEN EFFRON, HOPE KNIGHT, ANNA HAYES LEVIN,
ORLANDO MARÍN, Commissioners



CITY OF NEW YORK
MANHATTAN COMMUNITY BOARD 10
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BRIAN A. BENJAMIN
Chairperson

ANDREW LASSALLE
District Manager

November 2, 2016

Uniform Land Use Review Procedure (ULURP)
Request for CB10 Advisory Support

Project Name: The Frederick
Application #'s: C 170085 HAM and C 170081 ZMM
CEQR #: 16HPD152M

Action(s) Requested

1. Related Acquisition or Disposition of Property
2. Rezoning from R7-2/C1-4 to R8A/C2-4
3. Mandatory Inclusionary Housing
4. FRESH Store (certificate needed to double supermarket sq footage)

Committee: 10 yes; 0 no; 0 abstentions
Full Board: 15 yes; 13 no; 0 abstentions

WHEREAS, JCAL Development Group, LLC (“JCAL”) is requesting a letter of support from Manhattan Community Board 10 (“CB10”) for the Acquisition or Disposition of Property at 2395 Frederick Douglass Boulevard along with the rezoning to facilitate the construction of a development of a project, known as The Frederick, which will include a 100% mixed-use affordable housing rental development, financed by the HPD Extremely-Low and Low-Income (ELLA) Program, along with an on-site grocery store as part of the Food Retail Expansion to Support Health Program (FRESH); and

WHEREAS, the proposed development would require rezoning of the development site from the existing R7-2 with C1-4 commercial overlay to an R8-A with C2-4 commercial overlay in order to comply with a Mandatory Inclusionary Housing (“MIH”) Overlay and for consideration for a certificate to include a FRESH Store; and

WHEREAS, JCAL and HPD appeared at a public hearing of CB10’s Land Use Committee on October 20, 2016 and presented the following information and made the following representations and commitments regarding the proposed development:

1. The existing site conditions include an area comprised of one privately-owned lot and one city-owned lot with an existing R7-2 with C1-4 commercial overlay.

2. The Frederick would consist of a 15-story building comprised of 75 units (11 Studios, 25 One-Bedrooms, 26 Two-Bedrooms, 12 Three-Bedrooms), and 7,341 square feet of commercial space for a FRESH Store.
3. The Frederick will function as a 100% affordable housing rental development, specifically: (a) 92% of the units will have rents affordable to households earning < 60% of AMI; and (b) 8% of the units will have rents affordable to households earning 90% of AMI.
4. 19 of the units will be “MIH” permanently affordable units
5. 1,028 square feet of retail and community facility space
6. JCAL is commitment to working with HPD to ensure robust marketing of the Frederick’s units to residents of the CB10 District in order to have a sufficient number of qualified applicants from CB10 District to achieve the goal of having the 50% of the Frederick’s units occupied by CB10 District residents.
7. JCAL will work closely with, and bear any expense related to, an ombudsman or tenant representative who will in turn work with residents of the CB10 District in connection with the application and interview process and any disputes or grievances that might arise therefrom, to ensure that CB10 District Residents receive equal and fair consideration for approval for occupancy of at least 50% of the units in the Frederick.

THEREFORE, BE IT RESOLVED, that based on and conditioned on the foregoing expressed representations and commitments made by JCAL at Public Hearings of the CB10 Land Use Committee, on November 2, 2016, the Manhattan Community Board 10 supports the proposed acquisition or disposition of property at 2395 Frederick Douglass Boulevard along with the proposed rezoning to facilitate the development of the Frederick as of a mixed-use 100% Affordable Housing rental development with a FRESH Store, with at least 50% of building residents selected from the CB10 District. On Wednesday, November 2, 2016 Manhattan Community Board 10 voted in favor of the aforementioned resolution with a vote of 15 in favor, 13 opposed and 0 abstentions.

Borough President Recommendation

City Planning Commission
22 Reade Street, New York, NY 10007
Fax # (212) 720-3356

INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.
2. Send one copy with any attachments to the applicant's representative as indicated on the Notice of Certification.

Applications: C 170081 ZMM, N 170082 ZRM, C 170085 HAM, N 170083 ZAM and N 170084 ZCM– The Frederick

Docket Description:

C 170081 ZMM

IN THE MATTER OF an application submitted by the NYC Department of Housing Preservation & Development pursuant to Sections 197-c and 201 of the New York City Charter for an amendment to the Zoning Map, Section No. 6a:

1. eliminating from within an existing R7-2 District a C1-4 District bounded by West 129th Street, Frederick Douglass Boulevard, West 128th Street, and a line 100 feet westerly of Frederick Douglass Boulevard;
2. changing an R7-2 District to an R8A District property bounded by West 129th Street, Frederick Douglass Boulevard, West 128th Street, and a line 100 feet westerly of Frederick Douglass Boulevard; and
3. establishing within the proposed R8A District a C2-4 District bounded by West 129th Street, Frederick Douglass Boulevard, West 128th Street, and a line 100 feet westerly of Frederick Douglass Boulevard;

N 170082 ZRM

IN THE MATTER OF an application submitted by New York City Department of Housing Preservation and Development and 2395 FDB JV, LLC, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying Appendix F for the purpose of establishing a Mandatory Inclusionary Housing area.

(See Continued)

COMMUNITY BOARD NO:

10

BOROUGH: Manhattan

RECOMMENDATION

- APPROVE
- APPROVE WITH MODIFICATIONS/CONDITIONS (List below)
- DISAPPROVE
- DISAPPROVE WITH MODIFICATIONS/CONDITONS (Listed below)

EXPLANATION OF RECOMMENDATION – MODIFICATION/CONDITIONS (Attach additional sheets if necessary)

See Attached


BOROUGH PRESIDENT

December 28, 2016
DATE

C 170085 HAM

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 2405 Frederick Douglass Boulevard (Block 1955, Lot 16) as an Urban Development Action Area; and
 - b. 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 be selected by HPD;

to facilitate a 15-story mixed use building containing residential, retail and community facility space.

Borough of Manhattan, Community District 10.



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

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Gale A. Brewer, Borough President

December 28, 2016

**Recommendation on ULURP Application Nos. C 170081 ZMM, N 170082 ZRM, C 170085 HAM, N 170083 ZAM and N 170084 ZCM– The Frederick
By New York City Department of Housing Preservation and Development**

PROPOSED ACTIONS

The New York City Department of Housing Preservation and Development (“HPD” or “the Applicant”) and its proposed development partner 2395 FDB JV LLC (JCAL Development) seek approval of multiple land use actions to facilitate the development of a 15-story mixed-use building at 2395 Frederick Douglass Boulevard (Block 1915, Lots 12, 14, and 16) in the Central Harlem neighborhood, Community Board 10 (CB 10) in the Borough of Manhattan.

The actions include: 1) a zoning map change to a higher-density contextual residential district and with a commercial overlay; 2) a text amendment to apply the city’s Mandatory Inclusionary Housing (MIH) program; 3) the designation of city-owned property as an Urban Development Action Area (UDAA), the approval of the project as an Urban Development Action Area Project (UDAAP), and the disposition of such property to a developer to be selected by HPD; 4) a CPC chairperson certification for a FRESH food store; and 5) a CPC authorization for a height modification related to the provision of a FRESH food store.

Any changes to the zoning map should be evaluated for consistency and accuracy, and given the land use implications, appropriateness for the growth, improvement and development of the neighborhood and borough. In evaluating the text amendment, this office must consider whether the amendment is appropriate and beneficial to the community and consistent with the goals of the MIH program.

Urban Development Action Area and Urban Development Action Area Project

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 entities 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 tax incentives provisions of the Urban Development Action 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 Action Area Act].

Section 197-c of the New York City Charter mandates that the disposition of all city-owned real property (other than the lease of office space) be subject to the Uniform Land Use Review Procedure (“ULURP”). While no specific findings must be met to make a property eligible for disposition under Section 197-c, Section 1802(6)(j) of the Charter limits HPD to the disposition of residential real property.

FRESH Certification and Height Authorization

In order for the Chairperson of the City Planning Commission (CPC) to grant a certification pursuant to ZR § 63-30 of the Zoning Resolution, an application must be submitted that includes drawings that define all of the requirements for a FRESH food store within the provided plans, a signed lease or written commitment from an operator, and a restrictive declaration on the property with the aforementioned drawings attached. This certification, while not subject to community review, is the eligibility requirement for a CPC authorization pursuant to ZR § 63-22. The Commission may modify the height and setback requirements of a building containing a FRESH food store as long as the Commission shall find that:

- (a) such modifications are necessary to accommodate a first story utilized as a FRESH food store;
- (b) the proposed modifications shall not adversely affect the essential scale and character of the adjacent buildings and any adjacent historic resources; and
- (c) the proposed modifications will not unduly obstruct access to light and air of adjacent properties.

The Commission may prescribe additional appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

PROJECT DESCRIPTION

2395 FDB JV LLC, as the HPD-selected development partner, seeks to develop a 15-story building of approximately 76,608 square feet, which will be built to a maximum of 150 feet in height. The Development Site will contain approximately 68,120 square feet of residential floor area, approximately 8,198 square feet of commercial floor area, and 290 square feet of community facility floor area for a total FAR of 7.96. The project will include 74 affordable units, of which 19 will be permanently affordable pursuant to the MIH program. The proposed building is located on Frederick Douglass Boulevard between 128th Street and 129th Street.

Background

The Development Site includes a city-owned lot (Block 1955, Lot 16) with a history of being incorporated into previous disposition applications initiated by the city but never approved. Documents available on the Department of Finance’s database for Lot 16 indicate it was

privately-owned until unpaid liens against the property forced the city to foreclose and take ownership in May 1989.¹

The first disposition application, I 910273 PPM, was submitted to the Department of City Planning (DCP) on February 1, 1991 by the former NYC Department of General Services (DGS)². The proposal sought unrestricted disposition of three city-owned parcels, including Block 1955, Lot 16. That application was later withdrawn by the agency.

In November 1992 DGS submitted to DCP application C 930216 PPM with the intent of returning Block 1955, Lot 16 and three other city-owned parcels to private ownership via auction. While the Community Board did not weigh in on the application, Borough President Ruth Messinger did recommend disapproval with recommendations about restrictions to be attached to any subsequent disposition specifying the kind of development and or uses that should occur on the parcels³. The City Planning Commission approved the application with conditions in December 1996; however the City Council would later vote to disprove in January 1997.⁴

The most recent application was in April 2000. The Department of Citywide Administrative Services (DCAS) filed with DCP application C 000507 PPM. The disposition application included 36 city-owned properties located in Central Harlem, including Block 1955, Lot 16. Manhattan Community Board 10 voted to approve the application with conditions and specifically on Block 1955, Lot 16 the Board specified a desire for contextual residential development with a ground floor storefront. Borough President C. Virginia Fields recommended approval of the application with similar conditions on Lot 16 emphasizing both contextual housing and a commercial ground floor to correspond with the Borough President's Frederick Douglass Boulevard Corridor Initiative.⁵ The City Planning Commission would move to approve with conditions in November 2001; however modifications made by the City Council pursuant to its approval in December 2001 removed Lot 16 and several other city-owned lots from the package.⁶

¹ Department of Finance Automated City Register Information System: Documents related to Block 1955, Lot 16, http://acrisweb.csc.nycnet/DS/DocumentSearch/DocumentImageView?doc_id=FT_1370000305637

² In 1996, former Mayor Rudolph Giuliani combined the Department of General Services and the Department of Personnel to form the NYC Department of Citywide Administrative Services. See [Giuliani Appoints Three Commissioners](http://www.nytimes.com/1996/08/11/nyregion/giuliani-appoints-three-commissioners.html). *New York Times*. August 11, 1996. <http://www.nytimes.com/1996/08/11/nyregion/giuliani-appoints-three-commissioners.html>

³ C 930216 PPM, City Planning Commission Report available at <http://www1.nyc.gov/assets/planning/download/pdf/about/cpc/930216.pdf>

⁴ NYC Council Committee archive file for C 930216 PPM, La Guardia and Wagner Archives, available at http://www.laguardiawagnerarchive.lagcc.cuny.edu/FILES_DOC/Microfilms/05/011/0000/00017/050143/05.011.00.00.00017.050143.17.pdf

⁵ C 000507 PPM, City Planning Commission Report available at <http://www1.nyc.gov/assets/planning/download/pdf/about/cpc/000507.pdf>

⁶ Resolution 2192-2001, New York City Council Committee on Land use <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=436865&GUID=00578B82-C489-45AF-9F50-81F8077BF724&Search=&Options=>

Area Context

The neighborhood surrounding the project area is comprised of strong residential and commercial elements and a variety of building types including mid-rise, new and old law tenements and post-war “tower in the park” high rises. The context of Frederick Douglass Boulevard is defined by an assortment of 4-story and 5-story mixed use residential buildings with ground floor storefronts. Within the project area there are several significant residential complexes including two New York Public Housing Authority (NYCHA) developments which are St. Nicholas Houses, a complex with 13 buildings to the east and Grant Houses, a complex with nine buildings to the southwest, roughly 14 and 21 stories respectively.

A number of educational institutions surround the Project Site. It sits in Manhattan Community Education Council 5, bounded by 155th Street (beginning of Washington Heights) to the north, Fifth Avenue to the east; 110th Street and Central Park to the south, and to the west generally bordered by Morningside, St. Nicholas, Bradhurst, and Edgecombe Avenues. In this area the majority of the primary and secondary educational institutions are operated by charter schools. To the north is St. Hope Academy Charter School and Democracy Prep Harlem Charter School. To the west is the Teachers College Community School and John H. Finley Campus School (PS/MS 129M). To the east is Harlem Children’s Zone Promise Academy. To the south are A. Philip Randolph School (PS 76), Democracy Prep Endurance Charter School, KIPP STAR Harlem Middle School and the Ralph Bunche Columbia Secondary School (P.S. 125). Mott Hall High School to the north is the closest high school in proximity to the Project Site.

In 1961, the area was predominantly zoned as R7-2, which has a maximum residential FAR of 4.0 and a maximum community facility FAR of 6.5. The commercial zoning compliments the medium density zoning with a C1-4 overlay district (maximum commercial FAR of 2.0), along Frederick Douglass Boulevard from West 128th Street extending up to West 155th Street. To the south of the development is the 125th Street corridor, which is mainly commercial, but a rezoning earlier in the decade included an inclusionary housing designated area and permitted additional bulk and uses.

The area is well served by public transportation. The Project Site is between the West 125th Street and West 135th Street stations along the Metropolitan Transportation Authority’s 8th Avenue express and local line as well as the Central Park West local and 6th Avenue Subway Line. The West 125th Street station is served by the A,B, C and D trains and the West 135th Street Station is served by the B and C trains providing access to The Bronx, Manhattan, and Brooklyn; The West 125th Street station serves as the closest express stop for this area. The site is also a short distance away from the 1 train at West 125th Street on Broadway, with service that connects to 2 and 3 express train service at West 96th Street and Broadway. Frederick Douglass Boulevard is served by the M10 New York City Transit (NYCT) bus line that provides service downtown to the east and west sides of Manhattan respectively. Also running north and south of Manhattan are the M2 and M3 NYCT bus lines approximately one avenue to the east and west respectively. The Bx33 runs along West 135th Street with service to Port Morris in The Bronx. The 125th Street corridor serves as a major crosstown line for NYCT bus service, featuring the M60 Select

Bus Service line that provides the only direct link from Harlem to LaGuardia International Airport in East Elmhurst.

The Project Site is also served by New York Police Department's (NYPD) 32nd Precinct, located on 135th Street between Frederick Douglass Boulevard and Adam Clayton Powell Jr. Boulevard. The Fire Department of New York's (FDNY) Engine 59, Ladder 30 Firehouse is nearby on West 133rd Street between Lenox Avenue and Adam Clayton Powell Boulevard.

Development Site and Project Site

The Development Site consists of 8 lots in total, 7 privately-owned lots (Block 1955, Lot 9, 10, 11, 12, 14, 17 and part of 7) and 1 city-owned lot (Block 1955, Lot 16). A smaller subset we are defining as the Project Site consists of 2 privately-owned lots (Block 1955, Lots 12 and 14) and 1 city-owned lot (Block 1955, Lot 16). The Development Site is bounded to the north by West 129th Street, to the south by West 128th Street, to the east by Frederick Douglass Boulevard, and to the west by St. Nicolas Avenue. The total lot area for the Development Site is 19,984 square feet. Included on the Development Site are active-use buildings which exist (and will remain) on lots that are included exclusively for the rezoning and are not part of the Project Site where construction will occur. Those active use buildings include a 2-story building on Lot 9, a 4-story residential building with ground floor commercial use on Lots 10 and 11, and a 5-story residential building with ground floor retail on Lot 17. The part of Lot 7 included for the purposes of rezoning only is currently vacant.

The Project Site (Block 1955, Lot 12, 14 and 16) will be where construction of the proposed building will occur. The Project Site is bounded to the north by West 129th Street, to the south by West 128th Street, to the east by Frederick Douglass Boulevard, and extends west into the block approximately no further than 80 feet at its deepest point (Lot 12). The Project Site has a total area of 9, 625 square feet. Currently located on the Project Site is a 2-story commercial building with an undersized Bravo supermarket on Lot 12, a 1-story commercial building on Lot 14 also used by the supermarket. Lot 16, the city-owned lot, is a vacant lot.

Proposed Project

This project will create a new mixed-use development that addresses the need for more affordable housing units in Central Harlem and provides a new FRESH supermarket and community space to facilitate much welcomed ground floor activity. Significantly, the proposed approximately 75-unit (74 affordable units and 1 unit for the superintendent), 15-story mixed-use building will include unit rentals reaching some of the deepest levels of affordability through financing provided by HPD's Extremely Low & Low-Income Affordability (ELLA) Program Term Sheet.

The Proposed Project presents a building base that will reach approximately 100 feet high, at which point it will setback 10 feet and extend upward approximately 43 feet 6 inches except for a dormered portion⁷ on the southeast end of the Project Site.

To facilitate this development the applicant is seeking a change of the existing R7-2 zoning district to R8A/C2-4. The application also includes a zoning text amendment to establish a Mandatory Inclusionary Housing (MIH) overlay with a request that Option 1 requirements be applied to the site. Under the proposed R8A, the total zoning floor area of the Proposed Development will be approximately 76,608 square feet, including approximately 68,120 square feet of residential zoning floor area, approximately 8,198 square feet for the supermarket component, including related retail space with an entrance on Frederick Douglass Boulevard, and approximately 290 square feet of community facility zoning floor area. Pursuant to the provisions of MIH, the Proposed Development will be permitted a total FAR of 7.2. However, the zoning bonus permitted by the FRESH Program increases the FAR to 7.95. The proposed developer is seeking to use the total permitted FAR. The applicant is also seeking the designation of Block 1955, Lot 16 as an Urban Development Action Area (UDAA), the approval of the project as an Urban Development Action Area Project (UDAAP), and the disposition of such property to a developer to be selected by the applicant.

Per conversations with the applicant, the building's units will be distributed throughout no less than 65% of the building and the rent structure will provide five tiers of affordability. Each tier will include a range of apartment sizes from studios to 3-bedrooms. The breakdown is as follows: 10% of units or 8 units will be targeted for families at 30% of AMI; 15% or 11 units at 40% of AMI; 15% or 11 units at 50% of AMI; 52% or 39 units at 60% of AMI; and 8% or 6 units at 90% of AMI. The unit size mix will contain: (11) studio units: (25) 1-bedroom units: (27) 2-bedroom units: and (12) 3-bedroom units. Pursuant to MIH, 19 units out of the 75 units will be permanently affordable while the remaining 56 units will be affordable pursuant to a HPD regulatory agreement with a minimum 30 year loan term required by HPD's ELLA Program⁸. Below in Figures 1 and 2 are the expected income bands and initial rents for the units in the proposed development. Figure 3 details the suggested minimum net square footage outlined in the design and construction requirements as part of the ELLA Program:

Figure 1: Approximate Income Bands pursuant to the ELLA Program

Income Bands	30% AMI	40% AMI	50% AMI	60% AMI	90% AMI
Studio	\$15,000 –17,145	\$21,500–23, 495	\$27,500–29,845	\$34,300–36,195	\$53,750-55,245
1-Bedroom	\$17,145 –19,575	\$23,495–26, 825	\$29,845–34,075	\$36,195–41,325	\$55,245-63,075
2-Bedroom	\$19,575–24,462	\$26, 825–33,522	\$34,075–42, 582	\$41,325–51,642	\$63,075-78,822
3-Bedroom	\$22, 032–28, 377	\$30,192–38, 887	\$38,352–49, 397	\$46,512-59,907	\$70,992-91,437

⁷ A dormer is a roofed structure, often containing a window that projects vertically beyond the plane of a pitched roof. <http://architecturaldictionary.org/dictionary/dormer/>

⁸ HPD's Extremely Low & Low-Income Affordability (ELLA) Program Term Sheet. Retrieved from <https://www1.nyc.gov/assets/hpd/downloads/pdf/developers/term-sheets/ELLA-Term-Sheet.pdf>

Figure 2: Approximate Initial Rents pursuant to the ELLA Program

Rents	30% AMI	40% AMI	50% AMI	60% AMI	90% AMI
Studio	\$389	\$548	\$707	\$865	\$1,144
1-Bedroom	\$419	\$589	\$759	\$929	\$1,439
2-Bedroom	\$509	\$713	\$917	\$1,121	\$1,733
3-Bedroom	\$582	\$817	\$1,053	\$1,289	\$1,995

Source: Land use Review Application submission packet for C 170081 ZMM, N 170082 ZRM, C 170085 HAM, N 170082 ZAM, and N 170084 ZCM – The Frederick

Figure 3: Suggested Minimum Net Square Footage pursuant to the ELLA Program

Unit Type	Net Square Footage
1-Bedroom	500 sq. ft.
2-Bedroom	650 sq. ft.
3-Bedroom	800 sq. ft.
1-Bedroom	1,000 sq. ft.

Source: HPD's ELLA Program Term Sheet

Proposed Actions

The proposed affordable housing development will create approximately 74 affordable rental units, of which 19 will be permanently affordable under the MIH program. In order to facilitate this development, the following actions are required:

Zoning Map Change (C 170081 ZMM)

HPD proposes a zoning map change to Zoning Sectional Map No. 6a from an existing R7-2 district with a C1-4 commercial overlay along Frederick Douglass Boulevard to an R8A District with a C2-4 overlay that extends 100 feet in depth from Frederick Douglass Boulevard.

The change from an R7-2 to an R8A District will increase the maximum residential floor area ratio (FAR) from 4.0 to 7.2 with mandatory inclusionary housing and FRESH floor area bonus. R8A Districts are found directly south of the site along the west side of Frederick Douglass Boulevard from West 128th Street to West 126th Street, and are found mapped on other wide streets throughout Harlem.

Zoning Text Amendment (N 170082 ZRM)

Complementary to the zoning map amendment allowing for an increase to the permitted residential floor area ratio, a zoning text amendment to modify Appendix F of the Zoning Resolution to apply Mandatory Inclusionary Housing requirements to the site is required. The applicant is also requesting that the City Planning Commission and City Council apply Option 1 requirements to the site. This would require that the development dedicate no less than 25% of the residential floor area to households earning up to 60% Area Median Income (“AMI”), with at least 10 percent of the units at or below 40% AMI and with no units at a level exceeding 130 percent of AMI.

Urban Development Action Area and Urban Development Action Area Project (C 170085 HAM)

HPD seeks designation of a city-owned property located at 2395 Frederick Douglass Boulevard (Block 1955, Lot 16) as an Urban Development Action Area (“UDAA”) and approval for the mixed-use project as an Urban Development Action Area Project (“UDAAP”). The property is

located on the west side of Frederick Douglass Boulevard between West 129th Street and West 128th Street. In addition, HPD seeks approval for the disposition of said property to a developer selected by HPD, 2395 FDB JV LLC (JCAL Development).

FRESH Certification and Height Authorization (N 170084 ZCM and N 170083 ZAM)

A certification from the City Planning Commission Chair is requested pursuant to Section 63-30 to designate the Development Site as a FRESH supermarket on the ground floor and portions of the cellar floor. This certification enables the site to be eligible for an authorization by the City Planning Commission pursuant to Section 63-22 to modify the maximum building height by up to 15 feet. Under the authorization, the applicant requests an increase of 5 feet, from a maximum permitted height of 145 feet to a proposed development height of 150 feet.

Following discussions with this office, the bonus floor area generated by the FRESH supermarket has been allocated to units that are not designated MIH, permanently affordable units. This is to ensure no complications for the permanently affordable units if at such time in the future the FRESH supermarket is not in operation.

COMMUNITY BOARD'S RECOMMENDATION

At its full board meeting on November 2, 2016, Manhattan Community Board 10 (CB 10) passed a favorable resolution in support of designating Block 1955, Lot 16 as an Urban Development Action Area (UDAA), the approval of the project as an Urban Development Action Area Project (UDAAP), and the disposition of such property to a developer to be selected by HPD. The resolution also supported the FRESH supermarket actions. The only condition is for 50 percent of the units to go to residents of CB 10 and for the developer to provide sufficient marketing and an ombudsman or tenant representative to facilitate applications to achieve that percentage.

Previous to the full board vote, on October 20, 2016, the CB 10 Land Use Committee heard from HPD, representatives from JCAL Development, and members of the public regarding this project. The vote tally at the Land Use Committee was 10 in favor, 0 opposed, and 0 abstentions. At the full board meeting 15 voted in favor, 13 opposed, and 0 abstained.

BOROUGH PRESIDENT COMMENTS

As previously stated in the Manhattan Borough President recommendations on Lexington Gardens II(C 160336 ZMM, N 160337 ZRM, C 160338 ZSM, C 160339 ZSM, and C 160340 HAM), The Leroy (C 170048 HAM and C 170049 PQM) and The Robeson (C 170050 ZMM, C 170051 HAM and N 170052 ZRM), the city must explore mechanisms to achieve “practical permanence” in affordable housing developments where the city has contributed land. At minimum, the expectation from this office when weighing the appropriateness of these actions is that the percentages of permanently affordable units in these types of proposals match the percentage of city-owned property that is contributed to make such developments feasible.

When units are not permanently affordable, we risk displacement later on at the end of the regulatory agreement. Each of these projects can provide an opportunity to improve the terms of the city's regulatory agreement for the construction of affordable housing. The Borough President continues, therefore, to strongly recommend that the city undertake a review of its approach in order to create more affordable units with permanent affordability when providing city-owned land to housing developers. As there is less and less city property available for disposition and developers are eager to create housing in a high demand market, the City must act now to create as much permanent affordable housing as possible.

In the instant case, conversations with the Applicant evidenced a willingness to proceed with a 50 year regulatory agreement term, which would significantly delay any risk of displacement. Unfortunately, on the eve of the deadline for this recommendation, we were informed by the proposed developer that it was not prepared at this point to commit to a period of affordability greater than 40 years for the portion of the housing not subject to MIH. It is our understanding that HPD continues to believe that a 50 year financing term and regulatory agreement is possible. We cannot overstate the importance of coming as close to permanence as possible and urge HPD, the Commission and the City Council to push the proposed developer toward a 50 year regulatory agreement term.

Another principle area of concern addressed by this application is the retention and expansion of affordable supermarkets. As discussed in a prior ULURP to allow a non-conforming affordable supermarket operator to continue operating at its location, affordable supermarkets are finding it very difficult to remain in business in Manhattan.⁹ Profit margins for supermarkets are low at best, and many face competition from national chains which can provide higher rents. The increasing competition from discounters and specialty chains has significantly impacted traditional grocers, as evidenced by the Great Atlantic & Pacific Tea Company, otherwise known as A&P, being forced to apply for Chapter 11 bankruptcy last year for the second time in as little as 5 years.¹⁰ So many affordable supermarkets such as the Associated Supermarket once located at 255 West 14th Street¹¹ and the Pathmark once located at 160 East 125th Street¹² have already closed in the Borough due to the above-mentioned pressures, and it is expected this trend will continue.

The FRESH zoning incentive program of 2008 can be a tool to ensure that supermarkets continue to be built and remain in perpetuity. In exchange for guaranteeing supermarkets with a retail space, the developer receives a residential bulk bonus in new buildings. That is an appropriate trade-off.

⁹ See Borough President comments regarding C160194ZMM, an application submitted by 1968 2nd Avenue Realty LLC to establish a C1-5 District within an R7A District to legalize an existing non-conforming use in Manhattan CB11

¹⁰ *A&P Bankruptcy Filing Indicates Likely Demise*, Wall Street Journal, July 20, 2015. Retrieved from <http://www.wsj.com/articles/a-p-files-for-chapter-11-bankruptcy-1437391572>


¹¹ *Locals Protest Associated Supermarket Rent Hike Outside Landlord's Office*, DNA Info, March 18, 2016. Retrieved from <https://www.dnainfo.com/new-york/20160318/chelsea/locals-protest-associated-supermarket-rent-hike-outside-landlords-office>

¹² *Pathmark Closure Jars East Harlem*, Wall Street Journal, November 17, 2015. Retrieved from <http://www.wsj.com/articles/pathmark-closure-jars-east-harlem-1447812643>

In regard to concerns about the use of city-owned property, this particular application represents an appropriate use of city resources to facilitate the development of affordable housing on privately-owned vacant land. Ultimately, this project will achieve the goals of the UDAAP by taking a blighted parcel of land and converting it into a building where all of the units are affordable for a minimum of 30 years, and where 25 percent of the floor area is permanently affordable, as well as a needed supermarket will remain and expand. In addition, the applicant committed in writing to CB 10 to provide the robust, community targeted marketing and to bear the expense for an ombudsman to work with the community and CB 10 on housing applications for the development and any issues that may arise from that process.

BOROUGH PRESIDENT RECOMMENDATION

Therefore, the Manhattan Borough President recommends approval of ULURP Application Nos. C 170050 ZMM, C 170051 HAM, and N 170052 ZRM on the condition that the regulatory agreement for the affordable units not subject to MIH is for a term of not less than 50 years.

A handwritten signature in black ink that reads "Gale A. Brewer". The signature is written in a cursive, slightly slanted style.

Gale A. Brewer
Manhattan Borough President