



IN THE MATTER OF an application submitted by the NYC 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, Borough of Manhattan, Community District 10.

This application for an amendment to the Zoning Resolution was filed by the applicants on September 8, 2016. The proposed amendment to the Zoning Resolution, along with its related actions, would be used to facilitate a new mixed-use affordable housing development in the Central Harlem neighborhood of Manhattan, Community District 10.

RELATED ACTIONS

In addition to the proposed amendment to the Zoning Resolution (N 170082 ZRM), 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 Map Amendment to change an existing R7-2/C1-4 district to an R8A/C2-4 district;

- C 170085 HAM Designation of property as an Urban Development Action Area and Urban Development Action Area Project (UDAAP); and, pursuant to Section 197-c of the New York City Charter, disposition of such property to a developer selected by HPD; and

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

BACKGROUND

A full background discussion and description of this application appears in the report for the related UDAAP action (C 170085 HAM).

ENVIRONMENTAL REVIEW

This application (C 170085 HAM), in conjunction with the related actions (C 170081 ZMM, N 170082 ZRM, N 170083 ZAM, N 170084 ZCM), was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 *et seq.* and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 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.

A summary of the environmental review appears in the report for the related UDAAP action (C 170085 HAM).

PUBLIC REVIEW

This application (N 170082 ZRM), along with the applications for the related actions (N 170083 ZAM and N 170084 ZCM), was referred for information and review in accordance with the procedures for non-ULURP matters on September 19, 2016, in conjunction with the related actions (C 170081 ZMM and C 170083 HAM), which were certified as complete by the Department of City Planning, and 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).

Community Board Public Hearing

Community Board 10 held a public hearing on this application (N 170082 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 conditions.

A summary of the Community Board's recommendation appears in the report for the related UDAAP action (C 170085 HAM).

Borough President Recommendation

This application (N 170082 ZRM) was considered by the Manhattan Borough President, who issued a recommendation approving the application with conditions on December 28, 2016.

A summary of the Borough President's recommendation appears in the report for the related UDAAP action (C 170085 HAM).

City Planning Commission Public Hearing

On December 12, 2016 (Calendar No. 10), the City Planning Commission scheduled January 4, 2017, for a public hearing on this application (N 170082 ZRM) and related actions. The hearing was duly held on January 4, 2017 (Calendar No. 18), in conjunction with the applications for the related actions.

There were five speakers in favor of the application and none in opposition as described in the report on the related application for the UDAAP and project approval and disposition of City-owned property (C 170085 HAM), and the hearing was closed.

CONSIDERATION

The Commission believes that the proposed amendment to the Zoning Resolution, in conjunction with the related actions, is appropriate. A full consideration and analysis of the issues and the reasons for approving this application appear in the related report (C 170085 HAM).

RESOLUTION

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

RESOLVED, by the City Planning Commission, pursuant to Section 200 of the New York City Charter, that based on the environmental determination, and the consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently modified, is further amended as follows:

Matter in underline is new, to be added;
Matter in ~~strikeout~~ is to be deleted;
Matter within # # is defined in Section 12-10;
* * * indicates where unchanged text appears in the Zoning Resolution

* * *

APPENDIX F

Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas

* * *

MANHATTAN

* * *

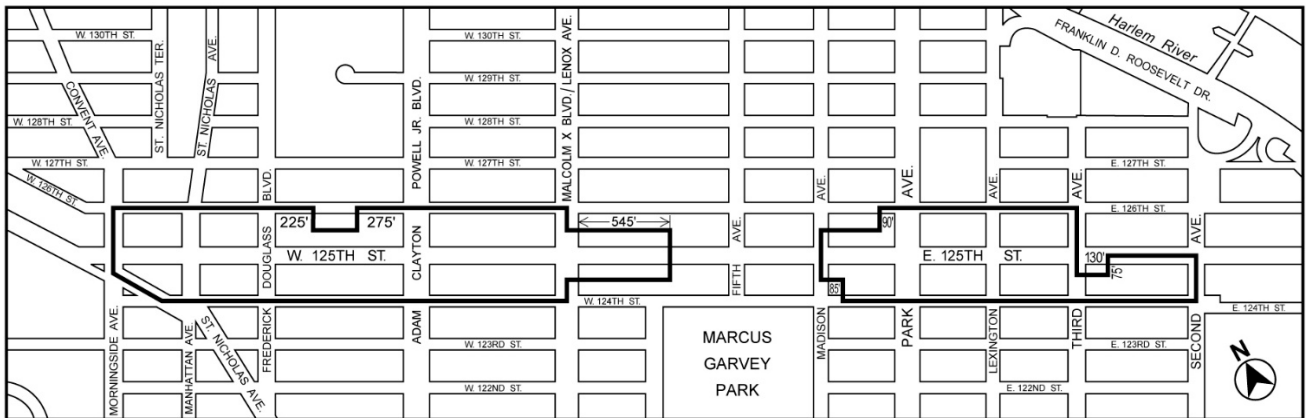
Manhattan Community Districts 9, 10 and 11

* * *

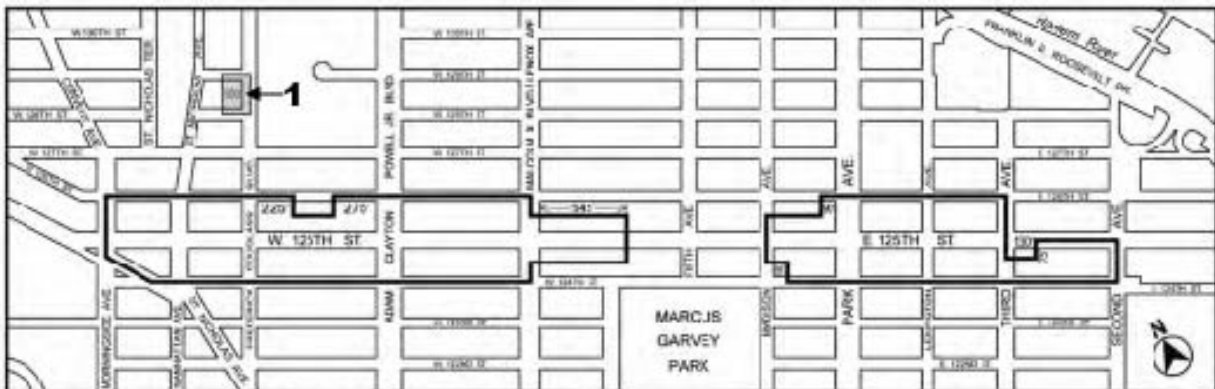
In the R8A District within the areas shown on the following Map 1, and in portions of the #Special 125th Street District#-see Section 97-421.

Map 1 - [date of adoption]

[EXISTING MAP]



[PROPOSED MAP]





Inclusionary Housing Designated Area



Mandatory Inclusionary Housing area see Section 23-154(d)(3)

Area 1 [date of adoption] — MIH Program Option 1

Portions of Community Districts 9, 10 and 11, Manhattan

* * *

The above resolution (N 170082 ZRM), duly adopted by the City Planning Commission on February 1, 2017 (Calendar No. 14) 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, CHERYL COHEN EFFRON,

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

HOPE KNIGHT, ANNA HAYES LEVIN, ORLANDO MARIN, Commissioners



CITY OF NEW YORK
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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/05/011/0000/00017/050143/05.011.000.00017.050143.17.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, flowing style.

Gale A. Brewer
Manhattan Borough President