



CITY PLANNING COMMISSION

July 1, 2015 Calendar No. 15

C 150212 HAM

IN THE MATTER OF an application submitted by the NYC 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 413 East 120th Street (Block 1808, Part of Lot 8), as an Urban Development Action Area; and
 - b) an Urban Development Action Area Project for such area;
- 2) pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer selected by HPD

to facilitate development of a twelve-story building with approximately 179 units of affordable housing Borough of Manhattan, Community District 11.

Approval of three separate items is required:

- a) the designation of property located at 413 East 120th Street (Block 1808, Part of Lot 8, as an Urban Development Action Area;
- b) an Urban Development Action Area Project for such area; and
- c) the disposition of such property to a developer selected by HPD.

The application for the Urban Development Action Area designation and project approval and disposition of city-owned property was submitted by the Department of Housing Preservation and Development (HPD) on December 24, 2014.

Approval of this application would facilitate the development of a twelve-story “L”-shaped mixed-use building having 179 units of affordable housing, 5,450 square feet of ground floor retail space, 3,920 square feet of community facility space. The proposed development would also provide 27 at-grade accessory parking spaces and approximately 9,410 square feet of private outdoor recreational open space.

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

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

RELATED ACTIONS

In addition to the Urban Development Action Area Project designation and the project approval and the disposition of city-owned property located at 413 East 120th Street (Block 1808; Part of Lot 8) which is the subject for this report, implementation of the proposed development also requires action by the City Planning Commission on the following application which is being considered concurrently with this application.

C 150211 ZMM An application by the Department of Housing Preservation and Development for an amendment to the zoning map to change from an R7-2 zoning district to an R7X district with a C1-5 commercial overlay.

BACKGROUND

The Department of Housing Preservation and Development (HPD) is seeking an Urban Development Action Area Project (UDAAP) designation, project approval, and the disposition of city-owned property for a site located at 413 East 120th Street (Block 1808; Part of Lot 8) to facilitate the development of a twelve-story “L”-shaped mixed-use building, providing approximately 179 units of affordable housing as well as 3,920 square feet of community facility space, and 5,450 square feet of ground floor retail space and 9,410 square feet of open space. The site is located in the East Harlem neighborhood of Manhattan within Community District 11.

The site is currently situated within an R7-2 zoning district. HPD proposes to change the zoning district to a contextual R7X zoning district with a C1-5 commercial overlay. The project site is currently occupied by a 75 car surface parking lot and a one-story vacant wing of the East Harlem Multi-Service Center (EHMSC). The surface parking lot and the one-story vacant building would be replaced by the proposed development.

The application will facilitate the development of approximately a 205,484 square-foot, twelve-story mixed-use building. The building will be 121-feet and 4 inches tall with a 4.98 FAR and will contain 179 units of affordable housing consisting of studio, one-, two-, and three-bedroom apartments, and one unit for a superintendent. The proposed development would be affordable to individuals earning from 30 to 90 % of the Area Median Income (AMI). Eighty-eight of the units would be affordable to individual at 60% of the AMI.

The surrounding neighborhood is generally developed with medium density residential uses, mixed-use commercial buildings, and public institutions. The sixteen-stories tall Senator Robert Wagner Sr. Houses, a New York City Housing Authority project (NYCHA), occupies the same block as the project site, as well as the block located on the west side of First Avenue. The area to the south of the project site is comprised of mixed-use, commercial and residential buildings, varying in height from three- to five-stories. Other NYCHA housing developments are located south of the site, including the Jefferson Houses and Johnson Houses, both fourteen-stories tall. East River Plaza, a shopping mall comprised of several chain stores, is southeast of the proposed project.

The area is accessible by public transportation and is served by the 4, 5, and 6 lines eight blocks west of the site at 125th Street. The Metro North station is also located at East 125th Street and Park Avenue. The M60, M100 and Bx15 buses run east-west along Doctor Martin Luther King Boulevard (East 125th Street) which is five blocks north of the project site. In addition, the M15 line also operates a Select Bus Service along the same route.

To facilitate the proposed development, the applicant is seeking the approval of the following two actions from the City Planning Commission.

UDAAP designation, approval and disposition of city-owned property (C 150212 HAM)

HPD requests UDAAP designation and project approval to facilitate the disposition of city-owned property and the construction of the proposed building. The city-owned property is located at 413 East 120th Street (Block 1808; Part of Lot 8).

Zoning Map Amendment

The applicant also seeks the approval of a zoning map amendment which would change an existing R7-2 residential district to an R7X district with a C1-5 commercial overlay. Beginning at the corner of East 120th Street and First Avenue, the proposed R7X district would extend approximately 180 feet along First Avenue at a depth of approximately 200 feet along East 120th Street. The existing R7-2 zoning district permits a maximum FAR of 3.44 for residential uses and a 6.50 FAR for community facility uses. The R7X zoning district would permit a maximum FAR of 5.0 for residential uses along with a 5.0 FAR for community facility uses.

The new commercial overlay would extend 180 feet along First Avenue and 100 feet into East 120th Street. The C1-5 district allows a maximum FAR of 2.0 for commercial uses. The rezoning would be a continuation of the existing R7X/C1-5 district located south of the site, along First Avenue between East 114th to the south side of East 120th Street.

ENVIRONMENTAL REVIEW

This application (C 150212 HAM) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead agency is the Department of Housing Preservation and Development. The designated CEQR number is 09HPD026M.

After a study of the potential impacts of the proposed action, a Negative Declaration was issued on January 20, 2015.

UNIFORM LAND USE REVIEW PROCEDURE

This application (N 150212 HAM) in conjunction with the application for the related action (150211 ZMM) was certified as complete by the Department of City Planning on February 2, 2015, and was duly referred to Community Board 11 and the Manhattan Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

Community Board Public Hearing

Community Board 11 held a public hearing on this application on March 17, 2015, and on that date, by a vote of 33 in favor, 0 opposed, 2 abstentions adopted a resolution recommending approval of the application.

Borough President Recommendation

This application (C 150212 HAM) was considered by the Borough President, who issued a recommendation approving this application on May 13, 2015, with the following conditions:

1. That the applicant provides community facility space in excess of 4,200 square feet; and
2. Submits language for a deed restriction that would require that the community facility space be occupied by a not-for-profit social service organization at a below market rent as stipulated by a June 8, 2009 HRA letter.

City Planning Commission Public Hearing

On May 6, 2015, Cal. No. 2, the City Planning Commission scheduled May 20, 2015, for a public hearing on this application (C 150212 HAM). The hearing was duly held on March 20,

2015 (Calendar No. 14). There were five speakers who spoke in favor of the application and none in opposition.

A representative from the Department of Housing Preservation and Development spoke in favor of the application, describing the project and the actions requested. The speaker stated that further review of the proposed community facility space would be required to determine if it would remain in perpetuity.

A representative from the project sponsor spoke in favor of the project. The speaker stated that quality of life has a direct impact on resident's health therefore non-toxic building materials would be used and a quality ventilation system would be provided.

The project architect spoke in favor of the application, stating that the building would be designed to encourage the use of stairs. She stated that the variation in the brick façade replicates the colors of brick that are already in the neighborhood. She also stated that this project was redesigned in 2014 based on post-Sandy NYC code revisions. These changes included the elimination of the cellar, relocation of the parking, meter rooms, compactor room and bicycle storage to the first floor, and the boiler room to the roof. Overall, these changes caused the building height to be increased from eleven to twelve floors, while reducing the floor area for retail space.

A representative from the not-for-profit developer spoke in favor of the project, stating that the organization had been in existence since 1990 and has participated the construction or rehabilitation of 24 supportive housing developments buildings consisting of a total of 886 units.

A representative from the Manhattan Borough President's office also spoke in favor of the project.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that the application for UDAAP designation, project approval and disposition of city-owned property (C 150212 HAM), in conjunction with the related application for the zoning map amendment (150211 ZMM), is appropriate.

The proposed actions would facilitate the development of a twelve-story “L”-shaped mixed-use building providing a total of 179 units of affordable housing. The project would also provide 5,450 square feet of ground floor retail space along with approximately 9,410 square feet of private open space.

As stated by speakers at the public hearing, it is noted that the proposed community facility space has been increased from 3,920 square feet to 4,334 square feet based on a stipulation in a Human Resources Administration (HRA) letter dated June 8, 2009. The proposed accessory parking has also been increased from 27 to 29 accessory parking spaces.

The Commission believes that the project would help to address the need for affordable housing for a variety of income levels with eighteen units at 30% of the AMI, twenty-seven units at 40% of the AMI, twenty-seven units at 50% of the AMI, eighty-eight units at 60% of the AMI, and 18 units at 90% of the AMI.

The Commission recognizes that the facility will provide ample recreational space, including private open space that would be provided on the roof of the parking structure at the second floor. As indicated, in a letter from HPD to the Commission dated May 28, 2015, the sponsor is amenable to having the community facility space made available to such agencies as Administration for Children’s Services (ACS) or the Department for the Aging (DFTA).

The Commission believes that the approval of the UDAAP for the development site would facilitate the redevelopment of vacated city-owned property thereby eliminating a blighting influence on the neighborhood. The Commission further believes that the proposed project would enable this-city-owned property to be developed with uses that would serve the needs of

Manhattan Community District 11.

The Commission also believes that the proposed development will not require any addition to the supportive services in the community. The Commission is pleased that the applicant committed in a letter dated May 28, 2015, that the community facility space will remain in perpetuity and that this will be reflected in the deed and the Land Disposition Agreement (LDA).

RESOLUTION

RESOLVED, that the City Planning Commission finds that the actions 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 413 East 120th Street (Block 1808, Part of Lot 8) 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 matters pursuant to the Urban Development Action Area Act:

- a) the designation of property located at 413 East 120th Street (Block 1808, p/o Lot 8), as an Urban Development Action Area; and
- b) an Urban Development Action Area Project for such area;

to facilitate development of a twelve--story building containing approximately 179 units of affordable housing, Borough of Manhattan, Community District 11; and

The above resolution (N 150212 HAM), duly adopted by the City Planning Commission on July

1, 2015 (Calendar No. 15), 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*

RAYANN BESSER, IRWIN G. CANTOR, P.E., ALFRED C. CERULLO, III,

JOSEPH I. DOUEK, RICHARD W. EADDY,

CHERYL COHEN EFFRON, BOME E JUNG,

ANNA HAYES LEVIN, ORLANDO MARIN, LARISA ORTIZ *Commissioners*

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.

Application: 150212 HAM, 150211 ZMM

Docket Description:

150212 HAM
150211 ZMM

IN THE MATTER OF an application submitted by NYC Department of Housing Preservation and Development pursuant to Sections 197-c and 201 of the New York City Charter seek the approval of multiple land use actions to facilitate the development of a twelve-story, mixed-use affordable housing project at 413 East 120th Street in East Harlem, Manhattan Community District 11, Borough of Manhattan.

(See Continued)

COMMUNITY BOARD NO: 11

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)

1. Final project provides community facility space in excess of 4,200 square feet; and
2. Applicant submits language for a deed restriction that would require that the community facility space be occupied by a not-for-profit social service organization at a below market rent as stipulated by the June 8, 2009 HRA letter.

John A. Brewer

BOROUGH PRESIDENT

5/13/2015
DATE

(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.

PROJECT DESCRIPTION

HPD seeks to develop a 205,484 gross square foot building with 27 parking spaces that will contain 165,057 zoning square feet of residential uses (179 rental units), 4,334 square feet of community facility zoning floor area¹, and 5,450 commercial zoning floor area. The development will be located on City-owned land at 413 East 120th Street, which currently serves as parking and flexible meeting and office space for the East Harlem Multi Service Center (EHMSC). The proposed building is 12 stories tall, approximately 121 feet in height, with a street wall of approximately 85 feet. The property will be owned by Acacia Gardens Housing Development Fund Corporation and will be managed by Promesa Housing Development Fund Corporation's property management arm, Promesa HDFC Property Management.

The East Harlem Council for Community Improvement, Inc. (EHCCI) is presently contracted by the New York City Human Resources Administration (HRA) to manage the community facility space of the East Harlem Multi-Service Center site and has done so for some time. In 2003, EHCCI became an affiliate of a precursor organization to what is currently Acacia Networks, which provides administrative and infrastructure services as well as assistance with compliance and operational issues as they arise.

The majority of the units will be for households earning 60% Area Median Income (AMI) or below. Eighteen units will be for households earning 30% AMI; 27 units will be for households earning 40% AMI; 27 units will be for households earning 50% AMI; 88 units will be for households earning 60% AMI; and 18 units will be for households earning 90% AMI. The final unit of the 179 unit total will be for the superintendent of the building.

A secondary goal of the project is to promote active living. The building will contain a ground floor level bicycle storage room as the project is conveniently located by East Harlem's principal north/south bike route along First and Second avenues (Class I, physically separated lanes) and an east/west corridor along East 120th and East 119th streets (Class II, unbuffered bike lane.) Exercise equipment will also be available to building residents.

¹ At the time of certification, the square feet allocated for community facility use was 4,200 sf. This square footage was later revised based on discussions with this office.

as a safe and reliable active and passive recreation space as well as a safe connection to the Upper East Side and Midtown East. Thomas Jefferson Park, which contains a running track, soccer field, swimming pool, and adult jungle gym, lies eight blocks south.

The development site and the block containing the site are zoned R7-2, which permits residential structures to be built up to 3.44 FAR without a height limit and 4.0 FAR and an 80 foot height limit with the Quality Housing option. The area south of the site was rezoned with contextual districts in 2003. The midblocks south of East 120th Street were generally rezoned to R7A and R7B. Lots along First Avenue were rezoned to R7X with a C1-5 overlay. There is a major commercial development six blocks away on East 117th Street, just east of Pleasant Avenue with several big box style retail stores in a C4-4 zoning district.

The neighborhood is accessible by various modes of public transit. Express and local trains on the Lexington Avenue Line are available at East 125th Street and Lexington Avenue. Local 6 train service is also available at East 116th Street and Lexington Avenue. The M15 and M15 Select provide service to the north and south via First and Second avenues respectively. On 120th and Pleasant Avenue, the M116 provides crosstown service via 116th Street. On 125th Street the M60 Select provides crosstown service to the Upper West Side and La Guardia Airport in Queens. The M100 provides service to Upper Manhattan via Amsterdam Avenue and Broadway. The Bx15 provides service to Fordham Plaza via Third Avenue in the Bronx.

While the area is served by public transportation, the Metropolitan Transportation Authority has identified significant capital spending priorities for the neighborhood to expand and improve access. The second phase of the Second Avenue Subway project is awaiting funding to reestablish a second rapid transit heavy rail line on the East Side of Manhattan. The Final Environmental Impact Statement for the project calls for a station on East 116th Street and Second Avenue.

Proposed Actions

The applicant seeks two separate ULURP approvals to facilitate the La Promesa project:

- 1) Application No. C 150212 HAM requests the designation of City-owned property located at 413 East 20th Street (Block 1808, part of Lot 8) as an Urban Development Action Area ("UDAA") and approval for the project as an Urban Development Action Area Project ("UDAAP"). In addition, HPD seeks approval for the disposition of said property to Acacia Gardens HDFC, which will also manage all aspects of the facility.
- 2) Application No. C 150211 ZMM requests a zoning map change to change the underlying zoning of the site from an R7-2 District to an R7X District with a

floor commercial space that are available on neighborhood thoroughfares. Extending the C1-5 commercial overlay over more of the avenue is a step in the right direction in the attempt to repair those gaps and expand the supply of commercial space where it is most appropriate.

The expectations from HRA regarding the amount and usage of community facility space were reasonable. During this office's evaluation of the proposal, it was determined that the amount of community facility space proposed at certification fell slightly below the floor that was established in the 2009 letter from HRA. Given the complexities of the project, it is understandable that some details may have been overlooked. The development team was notified of the discrepancy and they were able to quickly modify the layout of their tenant parking area to accommodate a modest expansion of the community facility space from 3,920 square feet to 4,334 square feet, thus satisfying one of the requirements set out in the letter. The applicant should submit a revised application to memorialize this change. As the approval process continues the applicant must still create a deed restriction to ensure that the community facility space will be filled and utilized in a similar manner to the EHMSC next door. The CPC should ensure that this deed restriction fully conforms to the terms of the 2009 letter.

At the Community Board 11 public hearing, members of the public raised concerns about past labor practices of the general contractor that will be used for the construction of this project. According to HPD, this contractor is on an "Enhanced Contractor Review" list, for firms that are presently involved in or have a history of labor law violations. According to the HPD website, contractors can be placed on this list because:

- The Contractor has \$500,000 or more in current prevailing wage withholdings; or
- The Contractor has a history of multiple or significant construction quality issues; or
- The Contractor has a history of multiple or significant labor law or construction law violations, as evidenced by
 - One or more determinations in judicial or administrative proceedings (unless such determination has been reversed on appeal),
 - One or more settlements, pleas, or other agreements in judicial or administrative proceedings; and/or
 - Non-confidential information based upon which HPD has reason to believe that the Contractor has violated such laws.
- The Contractor is listed in the federal *Excluded Parties List System*, the *List of Employers Ineligible to Bid on or Be Awarded any Public Work Contract* maintained by the State Department of Labor, and/or the *List of Debarred Offerors* maintained by the State Office of General Services.

At the request of HPD, the contractor for this project will take steps to ensure adherence to city rules and policy with the hiring of an independent monitor. While