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THE CITY OF NEW YORK
MANHATTAN COMMUNITY BOARD SIX
P.O. Box 1672
NEW YORK, NY 10159-1672

VIA E-MAIL

March 26, 2018

Marisa Lago
Chair
City Planning Commission
120 Broadway, 31st Floor
New York, NY 10271

Resolution regarding a proposed East 33rd Street Rezoning, application nos. C 170380 ZMM and N 170381 ZRM

Dear Chair Lago:

At the March 14, 2018 Full Board meeting of Manhattan Community Board Six, the Board adopted the following resolution:

WHEREAS, the applicant, 33rd Street Acquisition LLC, seeks a zoning map amendment and a zoning text amendment from the New York City Planning Commission (CPC) to facilitate the development of a mixed use building at 339-345 East 33rd Street;

WHEREAS, the zoning map amendment would rezone Manhattan Block 939, Lots 20, 21, 22, 23, 24, 25, 26, 27 and a portion of Lot 28 (the "proposed rezoning area") from an R8A to C1-9A;

WHEREAS, a text amendment to the New York City Zoning Resolution (ZR) Appendix F is also being requested to map the proposed rezoning area as a Mandatory Inclusionary Housing (MIH) area;

WHEREAS, collectively, the zoning map amendment and the zoning text amendment are the proposed action for the purposes of the environmental analysis;

WHEREAS, the proposed C1-9A district allows a commercial FAR of 2.0, a community facility FAR of 10.0, and a residential FAR of 12.0 with the provision of the requisite amount of affordable housing;

WHEREAS, the proposed rezoning will increase the maximum residential FAR of these lots from 6.0 FAR to 12.0 FAR and will trigger the Mandatory Inclusionary Housing (MIH) provision and allow commercial uses, which are currently prohibited;

WHEREAS, the proposed development site comprises approximately 10,822 sf over five lots (Block 939, Lots 23, 24, 25 and 27) bounded by East 33rd Street to the south, Second Ave to the west, East 34th Street to the north and First Avenue to the east;

WHEREAS, the zoning change for this development would occur mid-block on a portion of an usually wide side street;

WHEREAS, city streets are measured from property line to property line and include sidewalks, the street width measurement for 33rd Street between 1st and 2nd Avenues is considered “wide” at 80 feet;

WHEREAS, upzoning traditionally occurs on avenues, because the wide width of this one block section of East 33rd Street is an aberration, and does not set a precedent for mid-block upzoning and should be noted, and the street width may suggest it is appropriate for higher density, but it is not the sole determining factor;

WHEREAS, shadows or the absence of direct sun as demonstrated by the Environmental Assessment Statement will not be cast on Kips Bay Towers open space located on the southwest corner of 33rd Street and First Avenue, and there are very minimal shadow impacts on any shadow-sensitive resources in the surrounding area;

WHEREAS, light and air on the street depends on how much sky the development will block; the proposed building will block more light and air to 33rd Street than the existing zoning would allow;

WHEREAS, the applicant intends to seek tax benefits under Section 421-a of the New York State Real Property Tax Law (the Affordable New York Housing Program);

WHEREAS, the replacement ratio provisions of the Affordable New York Housing Program require that the project must contain at least one affordable housing unit for each dwelling unit that existed on the property prior to the commencement of construction;

WHEREAS, upon approval of the proposed action, the buildings on Lots 24-27 would be fully vacated and demolished in order to facilitate the construction of the proposed new building and as there are currently 40 rent regulated dwelling units, the proposed building will contain 40 affordable units, which is 25% of the planned 155 units and would satisfy the 25% minimum required affordable residential floor area under MIH, resulting in 115 market rate units;

WHEREAS, the proposed development would be 23-stories in height (230 feet) and the proposed 142,550 gsf building also includes incorporation of 16,453 sf of development rights from an adjacent tax lot (Block, 939, Lot 23);

WHEREAS, lot 23, which is not owned by the applicant, would be merged into the development site’s zoning lot as a result of the proposed action, and will remain under separate ownership and will not be demolished;

WHEREAS, the proposed development would also include 25.8% of affordable housing floor area, consistent with the MIH requirements, or approximately 40 affordable dwelling units;

WHEREAS, CB6 has a long-standing policy of encouraging affordable housing options within the district and members of the public testified at the public hearing about the urgent need for more affordable housing options within the district;

WHEREAS, the developer seeks to meet option 1 of MIH, which requires 25% of the residential floor area be designated as affordable housing units for residents with incomes averaging 60 percent or Area Median Income (AMI) with no unit targeted at a level exceeding 130 percent of AMI, with 10 percent provided as affordable to households at an average of 40 percent AMI;

WHEREAS, unlike other Manhattan Core community districts, there are few opportunities in Community District 6 for upzoning that would trigger Mandatory Inclusionary Housing;

WHEREAS, existing R10 districts and their commercial equivalents cannot be rezoned to trigger MIH, and mid-block districts facing narrow streets are already appropriately zoned;

WHEREAS, the requested actions would permit the applicant to construct a 23-story mixed use building that would contain approximately 131,807 gsf of residential use (115 market rate dwelling units and 40 affordable dwelling units) and approximately 10,743 gsf of retail use for a total of 142,550 gsf on Block 939, Lots 24,25,26 and 27 in the Kips Bay neighborhood of Manhattan Community District Six;

WHEREAS, the developer will dually benefit from participating in both the 421-a Affordable Housing New York Program and the benefits of the Mandatory Inclusionary Housing program;

THEREFORE, BE IT RESOLVED, Manhattan Community Board Six objects to the rezoning proposal as presented unless 40% of the residential square footage be dedicated to permanently affordable housing.

VOTE: 36 in Favor 1 Opposed 1 Abstention 0 Not Entitled

Best regards,



Jesús Pérez
District Manager

Cc: Hon. Gale A. Brewer, Manhattan Borough President
Hon. Carlina Rivera, Council Member
Sandro Sherrod, Chair, CB6 Land Use and Waterfront Committee
Applicant