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Mark D. Levine, Borough President

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Recommendation on 3 East 89th Street ULURP Application By 3 East 89th Holding LLC

PROPOSED ACTIONS

3 East 89th Holding LLC (“the Applicant”) is seeking a special permit and restrictive declaration pursuant to New York City Zoning Resolution (“ZR”) [Section 74-711](#) to facilitate the conversion and enlargement of the existing building on 3 East 89th Street (Block 1501, Lot 5) as well as the operation of a commercial art gallery (“the Project”). The special permit would allow for modifications in permitted use and bulk provisions (“the Actions”) for the building located at 3 East 89th Street, located in Manhattan Community Board 8 (a portion of the “Development Site”).

The Applicant proposes the following actions (“the Actions”):

1. Modification of permitted use provisions in [ZR Section 22-10](#); and
2. Modification of the bulk provisions in [ZR Section 23-47](#) (minimum required rear yard), [ZR Section 23-62](#) (maximum height), [ZR Section 23-692](#) (height limits for narrow buildings or enlargements), and [ZR Section 23-711](#) (minimum distance between buildings on a single lot).

BACKGROUND

Area Context

The Development Site is one zoning lot located on the north side of East 89th Street, between Fifth Avenue and Madison Avenue that contains Lot 5 as well as the adjacent Lots 4 and 7. The site is located within Manhattan Community District 8 in the Carnegie Hill neighborhood on the Upper East Side.

The area surrounding the Development Site is comprised of R10 zoning districts along the avenues and R8B districts on the mid-blocks. The R10 district along 5th Avenue is located within the Special Park Improvement District and along Madison Avenue. The R10 district is located within the Special Madison Avenue Preservation District as well as a C1-5 commercial overlay.

The Special Park Improvement District was created on April 23, 1973 with the intent of protecting the residential character and architectural quality of Fifth Avenue and Park Avenue from East 59th Street to East 111th Street. Building heights are limited to 210 feet or 19 stories, whichever is less, and FAR bonuses are prohibited.

The Special Madison Avenue Preservation District was created on December 20, 1973 with the intent of preserving the retail and residential character of Madison Avenue and the surrounding area between East 61st Street to East 96th Street. Ground floors of buildings within this Special District must be occupied by selected uses and bulk and street wall provisions limit the height of new developments.

Within the R10 Special Park Improvement District and R8B mid-blocks, Use Groups 1-4 are permitted as of right. These groups include all residential uses and community facility uses. The maximum FAR in R10 districts is 10.0 but may be increased to 12.0 with inclusionary housing. However, within the Special Park Improvement District, the FAR is capped at 10.0. In R8B districts, the maximum FAR is 4.0. In R8B districts, building base heights are capped at 65 feet and overall building heights are capped at 75 feet.

The C1-5 overlay allows use groups 5 and 6 with a permitted commercial FAR of 2.0. These use groups include hotels and retail and service establishments that serve local shopping needs.

In 1961, the zoning for this area was R10. In 1970, the mid-blocks were rezoned to R8 with the goal of maintaining lower density and residential character. In 1985, these mid-blocks were again rezoned to R8B to restrict building heights and increase lot coverage according to Quality Housing Program zoning regulations.

There are also several individual landmarks in proximity of the Development Site, including the Solomon R. Guggenheim Museum (across the street from the Development Site on 5th Avenue); Andrew and Louise Carnegie House (0.2 miles away, or a 3-minute walk); McAlpin-Minot House (0.2 miles away, or a 3-minute walk); Emily Trevor House (0.2 miles away, or a 3-minute walk); 17 East 90th Street (0.2 miles away, or a 3-minute walk); Otto and Addie Kahn House (0.2 miles away, or a 3-minute walk); James A. and Florence Sloane Burden, Jr. House (0.2 miles away, or a 3-minute walk); John Henry and Emily Vanderbilt Sloane Hammond House (0.2 miles away, or a 3-minute walk); and John B. and Caroline Trevor House (0.2 miles away, or a 4-minute walk).

The Development Site is a 9-minute walk away from the 86th Street subway station along the 4, 5, and 6 lines. The site is close to bus stops for M1, M2, M3, and M4 bus routes.

The Development Site is within a block of Central Park and the nearest entrance is at Fifth Avenue and East 89th Street. Currently, the block that the site is located on is closed to traffic as a part of the Open Streets program, which allows for a range of commercial and public activities on designated roadways. The closure takes place from 10am until 2pm Mondays through Fridays.

Nearby institutional uses include the Church of the Heavenly Rest on Fifth Avenue and East 90th Street directly to the north of the Development Site; Cooper Hewitt Smithsonian Design Museum on Fifth Avenue and East 91st Street; The Jewish Museum on Fifth Avenue; and East 92nd Street; and other museums along Museum Mile.

Carnegie Hill and Expanded Carnegie Hill Historic Districts

The Development Site is located within the Expanded Carnegie Hill Historic District. The Carnegie Hill Historic District was designated by the Landmarks Preservation Commission (“LPC”) on July 25, 1974 and was enlarged to include the Expanded Carnegie Hill Historic District on December 21, 1993. The mostly residential in character Carnegie Hill Historic District is primarily made up of rowhouses and mansions on the side streets and larger scaled multifamily housing on the avenues.

Certificate of Appropriateness

The Applicant first presented plans to restore and enlarge the townhouse on 3 East 89th Street to LPC on February 11, 2020. In order to facilitate the use of the site as a flagship location of Salon 94, a commercial art gallery, the Applicant applied to LPC for a Certificate of Appropriateness for rear and side enlargements, rooftop addition, and a new building awning at entrance, and for a Restoration and Maintenance Plan for façade restoration, and the adoption of a cyclical maintenance plan. This proposal included a 5,735 square foot addition to the existing 13,684 square foot 5-story structure. It also included the addition of a sixth floor for an artist residence and studio. That portion would be set back 35 feet from the front lot line and also called for an extension of the building into the rear yard for additional office space and studio space. This application was approved with modifications, not including the proposed sixth floor. LPC commented favorably about the restoration included in the project but concluded that the sixth floor addition, constructed of glass, was inappropriate for the Extended Carnegie Hill Historic District.

An updated version of the application was presented by the Applicant during the June 30, 2020 LPC public meeting. This proposal reduced the size of the original sixth floor artist residence, now set back 56 feet from the front lot line and less visible from the street. The updated design was approved by LPC at this meeting. During this meeting, LPC voted to issue a favorable report in support of the ZR Section 74-711 Special Permit application and issue a Certificate of Appropriateness for the proposed enlargement and other alterations.¹

Manhattan Community Board 8 held two public hearings on the LPC application for this Project on December 16, 2019 and January 13, 2020, during which the Board voted to recommend disapproval of the application. The Board raised issues with the proposed enlargements on the roof, rear, and east-facing side of the structure. In their resolution, Community Board 8 said that the proposed enlargement exceeded what would be considered a minimal impact in terms of scale and access to light and air. They also noted that the proposed changes would not constitute a public benefit, while previous enlargements made by the National Academy of Design were public benefits. The resolution stated that the 10 foot space in the rear yard needed to be preserved so to not intrude upon adjacent buildings, and that the roof enlargement was not appropriate for the Extended Carnegie Hill Historic District.

¹ [Landmarks Preservation Commission Findings 3 East 89th Street, June 30, 2020](#)

74-711 Zoning Provision

ZR Section 74-711 pertains to zoning lots either containing a landmark designated by LPC or a zoning lot with an existing building located within a historic district designated by LPC. ZR Section 74-711 lists the following conditions under which the City Planning Commission (“CPC”) may approve modifications to use and bulk regulations:²

- I. Program for Continued Maintenance: Any application pursuant to this Section shall include a report from the LPC stating that a program has been established for continuing maintenance that will result in the preservation of the subject building or buildings, and that such use or bulk modifications, or restorative work required under the continuing maintenance program, contributes to a preservation purpose;
- II. LPC Certificate of Appropriateness: Any application pursuant to this Section shall include a Certificate of Appropriateness, other permit, or report from the LPC stating that such bulk modifications relate harmoniously to the subject landmark building or buildings in the Historic District, as applicable; and
- III. Number of Permitted Dwelling Units: The maximum number of dwelling units shall be as set forth in ZR § 15-111 (number of permitted dwelling units).

In its statement of findings for this 74-711 application, LPC concluded that the proposed bulk modification would have minimal adverse impacts on surrounding structures and open space in terms of scale, location, and access to light and air and there would be minimal adverse effects on the conforming uses within the building and within the surrounding area.

PROPOSED DEVELOPMENT

The proposed Action would facilitate several changes to the existing structure at 3 East 89th Street. First, all five existing floors of the building would be converted to a Use Group 6 commercial art gallery. Second, the north side and east side of the building would be enlarged, the fifth floor would be enlarged to the extent of the enlarged fourth floor, a second floor mezzanine would be added, and a new penthouse would be added on the sixth floor. The total square footage of the building would increase from 13,684 square feet to 19,071 square feet. After enlargement, floors 1-3 would be used as a Use Group 6 commercial art gallery, and floors 4-6 would be used as a Use Group 2 residence. The second floor mezzanine would be used for mechanical equipment serving the residence. The building height would be increased from 79 feet 10 inches to 94 feet 9 inches. Both the existing and proposed building heights are taller than the current maximum permitted height of 60 feet.

In conjunction with the approved LPC application, the Project includes restorative work to the façade of the building which is intended to return the building closer to its original appearance.

² [New York City Zoning Resolution, Section 74-711](#)

The Applicant has requested a restrictive declaration for this project including a commitment to the following conditions:

1. Development of the project according to plans submitted with special permit application;
2. Completion of façade restoration work;
3. Continuance of preservation, maintenance, and repair to structure; and
4. Compliance with continuing maintenance program.

Site Description

The Development Site is comprised of three lots (Block 1501, Lot 4, 5, and 7). These three lots were formerly owned and operated by the National Academy of Design until 2019. Following its closure, the building located on Lot 5 was sold to the Applicant.

The building located on Lot 5 is currently occupied by the Applicant, Salon 94, and is being operated as a non-commercial art gallery which is allowed as-of-right under Use Group 3. Lot 7 currently is occupied by a two-story structure and Lot 4 is currently occupied by a six-story structure.

3 East 89th Street is split between two zoning districts. Just over half of the lot is located within a R8B district, and the other portion is located within a R10 district. Less than half of the lot is also within the Special Park Improvement District. Currently, this zoning does not allow for a Use Group 6 commercial art gallery.

COMMUNITY BOARD RESOLUTION

The community board held a public hearing for this application on January 12, 2022, and an additional meeting with the Applicant on February 9, 2022. At the public hearing, members of the Community Board and the public generally expressed support for the proposed Action. Some concerns were raised about the roof addition and the LPC approval process for the Certificate of Appropriateness that was issued by LPC on June 30, 2020.

At the Land Use Committee meeting on February 10, 2020, Manhattan Community Board 8 voted to recommend approval of the application by a vote of 27 in favor, 11 opposed, and zero abstentions. Community Board 8 did not include any conditions in their resolution but urged the applicant to implement changes suggested by community group Carnegie Hill Neighbors, if possible. Those requested changes are summarized as follows:

1. Reconfigure the sixth floor artist residence by moving it 4 feet east and 4 ft 5 inches north to allow for more light and air into the adjacent inner court at 1080 5th Avenue without lessening floor area; and
2. Open a 5-foot space on the third and fourth floors by reducing the angle of a tall rear window to improve light and air to 1083 5th Avenue.

BOROUGH PRESIDENT'S COMMENTS

After the closure of the National Academy of Design, I was happy to see that there was continued interest in using the property at 3 East 89th Street for the arts. While the block where the Development Site is located doesn't allow for commercial art galleries as-of-right, there is a strong tradition of the arts on this block with the legacy of the National Academy of Design and Museum Mile along Fifth Avenue. I join community members and advocates for the arts who testified that having a gallery at this location would be a positive asset for the surrounding neighborhood.

It is important that any development within the Expanded Carnegie Hill Historic District remain aesthetically consistent with the surrounding historic neighborhood. 3 East 83rd Street, built in 1915, is a representative structure of the neighborhood and the proposed improvements to the façade are consistent with the area's architectural style.

While the height of the proposed Project would exceed the 60-foot height limit for the Special District, the current building, which is already noncompliant at 79 feet 10 inches, predates the R8B designation for mid-blocks for the neighborhood and is partially in an R10 district, which allows much taller buildings.

The restoration and reuse of this building as an art gallery is an endeavor worthy of support. Before the LPC approval of the proposed Actions, the façade of the building had visible wear and needed renovation. In advance of the completion of the ULURP application, the Applicant has already completed significant exterior renovation and restored historic features from the interior. After the completion of the ULURP application, the Applicant plans to complete remaining façade restoration work.

Furthermore, I appreciate the Applicant's willingness to arrive at a design that minimizes impacts on the surrounding area. As currently configured, the sixth floor artist residence is positioned in a way that would have the lowest visual impact from street level. Moving it back and extending it to the east would make the addition more visible from the street and create unusable space due to the placement of the bulkhead and stairs. I look forward to this property continuing to serve as an asset to the arts and the entire community in the Carnegie Hill Neighborhood.

BOROUGH PRESIDENT'S RECOMMENDATION

Therefore, the Manhattan Borough President recommends **approval** of the 3 East 89th Street proposal.



Mark Levine
Manhattan Borough President