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Gale A. Brewer, Borough President

May 1, 2017

Recommendation on ULURP Application No.'s C 170226 ZMM, N 170227 ZRM, C 170228 ZSM, and C 170229 ZSM by The New York City Educational Construction Fund (ECF) and its proposed development partner AvalonBay Communities

PROPOSED ACTIONS

The New York City Educational Construction Fund (“ECF” or “the Applicant”) and its proposed development partner, AvalonBay Communities (AvalonBay), seek the approval of multiple land use actions to facilitate the development of a replacement facility for an on-site existing school, a new facility for the relocation of two existing neighborhood public high schools, a mixed-use building, and the relocation and rehabilitation of an existing jointly-operated playground. The Project Site is located on the block bound by First Avenue to the east, East 96th Street on the south, Second Avenue to the west, and East 97th Street to the north (Block 1668, Lot 1) in the East Harlem neighborhood of Manhattan, Community Board 11.

The actions include 1) a zoning map change to a high-density residential district with a commercial overlay; 2) a related zoning text amendment to apply the city’s Mandatory Inclusionary Housing (MIH) program; 3) Modifications pursuant to Section 74-75 of the Zoning Resolution to allow greater flexibility with respect to the distribution of lot coverage; 4) a special permit to waive parking requirements, modifications to height and setback restrictions, and tower regulations; and (5) certifications to modify restrictions on the location of curb cuts. Additionally, the applicant seeks certification from the Transit Authority and the City Planning Commission (CPC) that a transit easement is not required on the Project Area.

Additionally, the applicant is seeking approval by the New York State Legislature to relocate and reconstruct the Marx Brothers Playground located along Second Avenue to the mid-block of the Project Area.

Zoning Map Change and Text Amendment

In evaluating these land use actions, the office of the Manhattan Borough President must consider if the proposed language meets the underlying premise of the Zoning Resolution of promoting the general health, safety and welfare of the neighborhood in which this project is being proposed and whether the development would be appropriate to the neighborhood. 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.

Special Permit pursuant to Section 74-75 of the Zoning Resolution

In accordance with the provisions set forth in Chapter 4 of the Zoning Resolution, the City Planning Commission may, after public notice and a hearing, grant a special permit for modifications of the use or bulk regulations of the Zoning Resolution, provided that for each modification the conditions that must be addressed prior to granting the special permit are satisfied.

For combined school and residences owned by the New York City Educational Construction Fund, the CPC may permit modification to height and setback regulations as well as authorize the total floor area permitted by the applicable district regulations on the site to be distributed without regard for the district boundaries. The CPC may permit utilization of development rights; modify the requirements that open areas be accessible to and usable by all persons occupying a dwelling unit or rooming unit on the zoning lot in order to qualify as open space; permit ownership, control of access and maintenance of portions of the open space to be vested in the New York City Educational Construction Fund or City agency successor in title; permit modification of yard regulations and height and setback regulations; and authorize an increase of 25 percent in the number of dwelling units or rooming units permissible under the applicable district regulations. The total number of dwelling units or rooming units and residential floor area shall not exceed that permissible for a residential building on the same zoning lot. The distribution of bulk on the zoning lot shall permit adequate access of light and air to the surrounding streets and properties.

Additional conditions for such modifications:

- 1) the school and the residence shall be developed as a unit in accordance with a plan approved by the Commission;
- 2) at least 25 percent of the total open space required by the applicable district regulations, or such greater percentage as may be determined by the Commission to be the appropriate minimum percentage, shall be accessible exclusively to the occupants of such residence and under the direct control of its management;
- 3) notwithstanding the provisions of Section 23-12 for permitted obstructions in open space, none of the required open space shall include driveways, private streets, open accessory off-street parking spaces or open accessory off-street loading berths; and
- 4) the Commission shall find that:
 - a) a substantial portion of the open space which is not accessible exclusively to the occupants of such residence will be accessible and usable by them on satisfactory terms part-time;
 - b) playgrounds, if any, provided in conjunction with the school will be so designed and sited in relation to the residence as to minimize any adverse effects of noise; and
 - c) all open space will be arranged to minimize friction among those using the open space of the buildings or other structures on the zoning lot.

The Commission shall give due consideration to the landscape design of the open space areas, consideration to the relationship of the development to the open space needs of the surrounding area, and may require the provision of a greater amount of total open space than the minimum

amount required by the applicable district regulation where appropriate for the purpose of achieving the open space objectives of the Residence District regulations. In addition, the Commission may prescribe other appropriate conditions and safeguards to enhance the character of the surrounding area.

Special Permit pursuant to Section 74-533 of the Zoning Resolution

The applicant is also seeking a special permit, pursuant to 74-533 of the Zoning Resolution, to waive accessory off-street parking requirements for non-income restricted dwelling units. The CPC may permit a waiver of, or a reduction in, the number of required accessory off-street parking spaces for dwelling units in a development or enlargement that includes at least 20 percent of all dwelling units as income-restricted housing units as defined in Section 12-10, provided that the Commission finds that such waiver or reduction:

- 1) will facilitate such development or enlargement. Such finding shall be made upon consultation with the Department of Housing Preservation and Development;
- 2) will not cause traffic congestion; and
- 3) will not have undue adverse effects on residents, businesses or community facilities in the surrounding area, as applicable, including the availability of parking spaces for such uses.

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

Lastly, the applicant is seeking certification from the City Planning Commission, pursuant to Sections 26-15, 26-17 of the Zoning Resolution, to allow more than one curb cut on a narrow street and curb cuts on a wide street.

PROJECT DESCRIPTION

The applicant has proposed a project that involves the construction of a mixed-use tower on Second Avenue containing a 135,000 square foot public technical school, a replacement facility for the existing School of Cooperative Technical Education (COOP Tech), approximately 25,000 square feet of retail space, and approximately 1,015,000 square feet of residential floor area. Following the demolition of the existing COOP Tech, the co-applicants will construct a 135,000 square foot building on First Avenue that will house two existing public high schools, Heritage High School and Park East High School, currently occupying other locations within the community district. The jointly-operated playground (JOP) that would be managed by both the Department of Education (DOE) and the Department of Parks and Recreation (DPR) currently sits on the western portion of the project site but would be relocated to the center of the project site at the urging of DPR.

Background

The Project Area, currently owned by the City of New York, has a longstanding history of public and institutional uses. During the 1870s and 80s it served as a stable for horse-car lines that served customers from City Hall to as far north as 129th Street. In the 1890s, the site became a holding facility for streetcars as trolleys became more popular. As public transportation

advanced and buses became the dominant form of public transit above ground in the 1930s, the streetcar facility was abandoned and the site sat empty for several years.

The streetcar facility was eventually demolished and construction of a new four-story, 103,498 square foot trade school designed by DOE architect Eric Keillon began in 1941. The Machine and Metal Trades High School occupied the eastern portion of the site. COOP Tech, a citywide vocational program, has occupied the building since 1984.

The western portion of the site was acquired for a public playground in 1941. The playground officially opened in spring of 1947 under the name Playground Ninety Six. In the 1990's it was renamed Marx Brothers Playground in honor of the successful early 20th Century comedy team and local Carnegie Hill neighborhood residents. The JOP is 1.49 acres and is currently equipped with playground equipment, bathroom facilities, and a heavily used multipurpose turf field primarily dedicated to soccer and softball.

Beginning in the late 1990's, the Metropolitan Transit Authority (MTA) began negotiations with the City to assume temporary control of the western portion of the playground for use as a staging area related to the construction of the Second Avenue subway. The agreement between the MTA and the City was signed in 2004 and subsequently required municipal and state action that led to alienation of the playground to the MTA. The MTA took over ownership of the staging area in 2007, which totals 23,000 square feet. Acknowledging the impact on open space, the MTA agreed to pay \$11 million to DPR that was invested in Thomas Jefferson, Marcus Garvey and Harlem River parks in Manhattan Community Board 11 (CB 11). The MTA is also required to make a payment to restore the playground, provide restitution for any trees removed and make other site improvements such as new sidewalks. As of April 27, 2017, the MTA has not vacated the site and the schedule moving forward is not yet known.

The northern half of the project site is currently zoned R7-2, a medium density height factor residential zone. The southern half of the project site is zoned R10A, a high density residential contextual zone. The lot area within 150 feet of Second Avenue is within the Special Transit Land Use District. No lot mergers are required for the project, and there are no (E) designations for the project site.

The co-applicant team is comprised of both private and public interests, AvalonBay and ECF respectively. AvalonBay is a national real estate investment trust (REIT) focused on development of apartments in high demand markets throughout the United States. Operating six apartment complexes in Manhattan, this will be the first of this kind of venture for the REIT in East Harlem. The New York State Legislature created ECF in 1967 as a financing and development vehicle of the DOE. ECF provides funds for combined occupancy structures including school facilities in New York City. Over the last 50 years, ECF has constructed projects that added over 18,000 school seats, 4,500 units of housing and 1.2 million square feet of office space in New York City.

East Harlem

As of 2010, East Harlem is comprised of approximately 120,500 residents with a median income of \$31,079 (with a 5.5 percent margin of error). CB 11 is predominately comprised of multi-family residential and mixed residential/commercial properties (low to midrise multi-family walk-up and elevator). The Community District is generally bordered by 96th Street to the south, East 132nd Street to the north, Fifth Avenue to the west and the FDR Drive and Randall's Island Park/Wards Island Park to the east.

The East Harlem Neighborhood Plan

The proposed project is located within the study boundaries of the East Harlem Neighborhood Plan ("EHNP" or "Plan"). The EHNP is a community-driven comprehensive roadmap for fostering smart growth in East Harlem. The process was led by City Council Speaker Mark-Viverito, Manhattan Community Board 11, Community Voices Heard (CVH) and the office of the Manhattan Borough President in partnership with a 21-member steering committee of local stakeholders. The plan was developed after a yearlong process with approximately eight large public meetings, 40 policy discussions, numerous calls and meetings with city agencies, and on-the-ground canvassing for person-to-person survey collection. The culmination of this work resulted in a final report with over 230 key objectives and recommendations to ensure a stable and inclusive future for the neighborhood.

The Plan acknowledges that this site is an active project within HPD's Manhattan pipeline, but it does not contain specific zoning recommendations for this full block site. According to the Plan's recommendations, all future rezonings should be done to ensure that 50 percent of the new housing on private and public rezoned sites is affordable to a variety of low- and moderate income levels. The Plan also recommends that 100 percent of units on public sites be permanently affordable, and that 20 percent of affordable units be set aside for those earning no more than 30 percent of AMI.

Other goals of the Plan relevant to this project are that affordable housing projects include:

- establishing a community preference for East Harlem residents (Affordable Housing Development, Objective 2.10),
- eliminating minimum parking requirements in rezonings (Zoning & Land use, Objective 2.11),
- preserving and investing in open space and playgrounds (Open Space & Recreation, Objective 1.1),
- expanding the use of underutilized and nontraditional spaces for the arts (Arts & Culture, Objective 1.2)
- creating socially vibrant sidewalks and activating the commercial streetscape (Zoning & Land use, Objective 3.1), and;
- leveraging rezonings to replace aging and inadequate school facilities with new facilities developed at the base of new developments (Zoning & Land use, Objective 3.3).

The Plan calls for permanent affordability when public sites are developed. However, only 30 percent of the units created in this project (those mandated under MIH) will be permanently affordable.

Area context

Located on the southernmost border of CB11, the project site is predominantly surrounded by residential buildings with varied typologies. To the east of the site, bordering the FDR Drive and the East River, is Stanley Isaacs Playground. It contains several basketball and handball courts for public use. To the north is Metropolitan Hospital Center, part of the New York City Health and Hospitals (H+H). To the west are several one to ten story residential buildings with ground-level commercial storefronts. Immediately to the south is a 15 story residential building and former PS 150, now known as the Life Sciences Secondary School. Due to proximity to the FDR Drive, a Shell gas station is located on the southwest corner of First Avenue and East 96th Street.

In 1961, East Harlem was predominantly zoned as R7-2. Since 96th Street is a street with heavier traffic flow, the southern half of the street was given R10 zoning and the northern half was zoned R7-2. R10 zoning allows for an FAR of 10 and R7-2 allows for an FAR range of 0.87 – 3.44 with an Open Space Ratio range of 15.5 – 25.5 along with a lower minimum-parking requirement. In 1973, the lot frontage of 2nd Avenue was included as part of an amendment to the C2-8 district but was altered later in the year as a Special Transit Land Use District (TA) for the future development of the 2nd Avenue subway line. In 1990, the R10 zoning was changed to R10A, creating the Quality Housing contextual regulation. R10A's are typically 22 story residential structures with high lot coverage and street walls set at or near the street line with an FAR of 10. R10A was created to match the surrounding building typology, and towers are not permitted.

A number of educational institutions border the Project Site. It sits in Manhattan Community Education Council 4 which extends from East 96th Street and Second Avenue to East 125th Street and the Harlem River. Although mostly in East Harlem, it also includes Ward's Island and Randall's Island. PS 198 The Straus School is located nearby at Third Avenue and East 96th Street. Also west of the Project Site is the Success Academy Harlem 3 and the New York Center for Autism Charter School. To the south of the Project Site is PS 150 Life Sciences Secondary School located directly across the street from COOP Tech on East 96th Street between Second and First Avenue and the Trevor Day School on East 95th Street.

The area is home to several renowned spiritual and cultural institutions. The closest houses of worship are the Church of God of 100 Street located on East 99th Street and Second Avenue, St. Francis de Sales Roman Catholic Church on East 96th Street between Lexington and Park Avenue, and The Islamic Cultural Center located on East 96th Street and Third Avenue. Nearby cultural centers include El Barrio's Artspace PS109 located on East 99th Street between Third and Second Avenues and the Julia de Burgos Latino Cultural Center located on Lexington Avenue between East 105th Street and East 106th Street.

The area is well served by the MTA. There are two bus routes. The M15 bus runs north on First Avenue and south on Second Avenue. The M96 bus runs cross-town along 96th Street. Subway stations include the 96th Street stop on the #6 Lexington Line located at Lexington Avenue and East 96th Street, and the newly opened Second Avenue Subway Q train stop with an entrance on

the southwest corner of Second Avenue and East 96th Street. The project site is also adjacent to a Citi Bike terminal at Second Avenue and East 96th Street.

Emergency services are provided by the NYPD's 23rd Precinct, located on East 102nd Street between Lexington and Third Avenues, and FDNY Engine 53 and Ladder 43 located on Third Avenue between East 101st Street and East 102nd Street.

Project Area and Project Site

As previously noted, the proposed project site comprises the entirety of Block 1668, Lot 1 with an approximate total lot area of 131,190 square feet. The site includes the JOP on the western portion of the full block site and COOP Tech's existing structure on the eastern portion. The lot is currently zoned as a R10 District with no commercial overlay. As stated above, an R10 zoning district allows for a maximum floor area ratio (FAR) of 10.

Proposed Project

The principal goal of this project is the creation of three new educational facilities along with a residential structure that includes affordable housing units and new playground space equal in size to the current Marx Brothers Playground. The proposed project would develop a 68-story building (760 feet in height, including bulkhead and mechanical equipment) with approximately 1,175,000 square feet on the western side of the project block, facing Second Avenue, and an eight-story building (185 feet in height, including bulkhead and mechanical equipment) with approximately 135,000 square feet on the eastern side of the block, facing First Avenue. The western building would include approximately 1,015,000 square feet of residential use (approximately 1,100-1,200 residential units); approximately 25,000 square feet of commercial retail use located on the first and second floors of the building, part of which will be targeted for a grocery; and approximately 135,000 square feet of public school use. The eastern building would house two additional public high schools that would relocate from nearby locations within CD 11. In total, the development on the site would be approximately 1,310,000 square feet.

The project would create a significant number of affordable housing units as part of the city's Mandatory Inclusionary Housing program (MIH). The site would be mapped as a Mandatory Inclusionary Housing Designated Area, and the applicant is committing to dedicate 30 percent of the total units to affordable housing under MIH. According to statements by the applicant, the investment in affordable housing will total approximately \$200 million and would not include any subsidies from the Department of Housing Preservation and Development (HPD).

The applicant will be using Option 1, which requires that at least 25 percent of the residential floor area be affordable with varying levels of affordability that average to 60 percent of AMI. In addition to Option 1, the developer is setting aside an additional 5 percent of permanent affordable housing, bringing the total amount of permanent affordable residential floor area committed on this project to 30 percent. Out of the approximately 1,100 –1,200 residential units, 330 to 360 units will be permanently affordable. Assuming that community preference will still be in effect when this building receives its Certificate of Occupancy, at least 50 percent of units will be set aside for the residents of Community District 11. All of the affordable units will be

subject to the affordable housing lottery with the maximum income capped at 110 percent of AMI. Per conversations with the applicant, the building’s rent structure will provide three tiers

of affordability. The breakdown is as follows: 10 percent of units or approximately 115 units at 40 percent AMI; 15 percent of units or approximately 173 units at 60 percent AMI, and 5 percent or approximately 57 units at 110 percent AMI. The unit size and mix will reflect the mix of market-rate units. The affordable units will be distributed pursuant to the current requirements of MIH.

Figure 1: Approximate Rents & Income Limits for Proposed Affordable Apartments

AMI	40%		60%		110%	
# of Apt	115 apartments		173 apartments		57 apartments	
	Rent	Max Income	Rent	Max Income	Rent	Max Income
Studio	\$580	\$25,450	\$896	\$38,050	\$1,690	\$69,800
1BR	\$623	\$27,200	\$962	\$40,775	\$1,812	\$74,775
2BR	\$758	\$32,650	\$1,165	\$48,950	\$2,184	\$89,700
3BR	\$867	\$37,700	\$1,338	\$56,525	\$2,812	\$103,650

Source: ECF (2017). ECF at East 96th Street [PowerPoint slides]. Retrieved from https://www.dropbox.com/s/lt7mc1agjc13tt2/ECF%20E96th_CB11%20Land%20Use%20Subcommittee%203.08.17.pdf?dl=0.

The retail and commercial space will extend over the first two floors of the building. Comments from the applicant state they are not seeking to recruit a “big box” store as an anchor tenant and that the primary commercial tenant will be a grocery use.

The existing JOP would be relocated to the middle of the block, between the two new buildings. The relocated jointly-operated playground would be of an equivalent size and proportion to the existing jointly-operated playground. The redesign of the JOP is being done in close consultation between the applicant and DPR. We understand that the applicant and DPR have been reaching out to CB 11 on the proposed configuration of the redesigned JOP but have held only one community meeting in October 2016 hosted at COOP Tech.

An additional consideration is the interim period from when the MTA vacates the staging area, to the closure of the JOP for construction. During the interim, the space will need to be restored to the accessible standards for play; those plans are still not finalized.

Based on information provided by the applicant, the total cost of playground reconstruction will be approximately \$8 million. As part of the MTA’s original agreement with DPR, the MTA is required to pay a portion of the reconstruction costs, although a final amount is still being

negotiated. The developer will be responsible for making up the gap in playground construction costs. There will be no capital costs to DPR.

The project site would be developed to an overall floor area ratio (FAR) of 9.7, as compared to the maximum permitted FAR under the proposed rezoning of 12.0. The agreements between ECF and AvalonBay will restrict the permitted development according to language in the Draft Environmental Impact Statement (DEIS).

The applicant is seeking to waive accessory off-street parking requirements for the non-income restricted dwelling units generated by this project. However, the applicant is still considering whether or not to include 120 accessory parking spaces under the western portion of the site. The Project Area is currently served by seven curb cuts. The Proposed Development will reduce this number to five curb cuts - three along East 97th Street (a narrow street) and two along East 96th Street (a wide street). All of the curb cuts are 22 feet wide and are located more than 50 feet from the nearest intersection. Two curb cuts are being created for the Mixed-Use Building, with one located along East 97th Street, and another along East 96th Street.

Because the project site is in a flood zone, the proposed buildings have been designed to improve the site's resiliency, including elevating the first floor of the new buildings above the design flood elevation, and other measures to assist in protecting the lower levels of the buildings.

Based on information provided by the applicant, the estimated total cost of construction is approximately \$950 million. The breakdown is as follows:

- approximately \$300 million in school construction costs;
- approximately \$8 million in playground construction costs;
- approximately \$200 million in permanent affordable housing costs;
- approximately \$442 million in residential and retail construction costs.

To finance the project the applicant is using ground rents, lease payments and/or tax equivalency payments from the non-school portion of the project to fund a bond that will cover the construction of the school facilities and debt service with a term of up to forty years. If approved, the project's approximate completion date is 2023.

Proposed Actions

As described in the application materials, the applicant seeks an amendment to the City Map, a zoning text amendment to Sections 74-75 (Educational Construction Fund Projects), modifications to Sections 23-64, 24-522, 23-651(a), 23-65(a)(2), 23-651(1), 23-651(b), and 24-11 of the Zoning Resolution, a waiver pursuant to Section 74-533, and CPC certifications pursuant to Sections 26-15, 26-17, and 95-04 of the Zoning Resolution. These actions will facilitate the construction of a 1,270,600 square foot mixed use building.

The amendment to the City Map includes several changes: the northern half of the Project Area will go from an existing R7-2 zoning district to a C2-8 zoning district within 100 feet of Second Avenue; the remainder will become an R10 zoning district. In addition, the southern portion of

the site changes from an R10A zoning district to a C2-8 zoning district within 100 feet of Second Avenue with the remainder as an R10 zoning district.

The text amendment pursuant to §74-75 will allow the distribution of allowable lot coverage without regard to zoning lot lines on a zoning lot containing the COOP Tech High School and will establish a Mandatory Inclusionary Housing Designated Area over the Project Area.

The special permit pursuant to §74-75 seeks to modify height and setback regulations per the following sections of the Zoning Resolution:

- 23-64 and 24-522 relating to height and setback and sky exposure regulations on First Avenue, Second Avenue and East 96th Street (wide street) and on East 97th Street (narrow street);
- 23-651(a) relating to permitted tower coverage to allow the tower of the proposed building to occupy a minimum of 9.6 percent of the zoning lot (12,600 square feet), which is less than the minimum 30 percent required tower coverage and to allow the tower coverage calculations to be made for the entire zoning lot;
- 23-651(a) relating to location of floor area to allow the proposed building to have 319,000 square feet or 20.3 percent of the total floor area on the zoning lot located either partially or entirely below a height of 150 feet, which is less than the required 55 percent to 60 percent of floor area;
- 23-65(a)(2), 23-651(a) and 23-651(b) to permit the proposed tower to be located beyond 125 feet from Second Avenue, not provide the required setback above the base and not occupy the entire street frontage of the zoning lot, and permit the street wall of the base of the tower to exceed 85 feet; and
- 24-11 to authorize distribution of lot coverage without regard for zoning lot lines in connection with the School Building.

The applicants also seek certifications from CPC to waive accessory off-street parking requirements for non-income restricted dwelling units, to allow more than one curb cut on a narrow street, to allow curb cuts on a wide street, and a certification from the Transit Authority and CPC for transit easement volume.

COMMUNITY BOARD'S RECOMMENDATION

At its Full Board meeting on March 21, 2017, CB 11 passed a favorable resolution with conditions in support of the application. In their comments submitted to the Department of City Planning, CB 11 voiced support for the applicant's efforts to create affordable housing, construct modern school facilities for East Harlem high-school students, rehabilitate the Marx Brothers Playground and establish a lively retail presence along Second Avenue. However, despite those benefits, the Board raised deep concerns with the height of the project and its implications for future East Harlem development. Additionally, given the dire need for affordable housing in East Harlem, the Board requested that the number of affordable units be increased from that currently proposed and that these units be kept affordable long-term.

Issues related to local school enrollment and park access also came up during the various committee meetings of the Board. CB members expressed concern that the high school benefiting from this development would not be serving students from East Harlem due to the DOE citywide open enrollment policy. In their recommendation the Board asked the DOE to consider a District 4 priority for enrollment. Regarding the JOP, members of the Board mentioned that given the high demand for field permits and the popularity of Marx Brothers Playground for league play, community residents who wish to use the field for non-organized activity are often left without options. The Board urged the applicant to work with DPR to set aside unscheduled time when the turf field reopens after renovations.

Before the full board vote, the applicant appeared before several committees between December 2016 and March 2017 to answer questions and discuss the Board's concerns. Those committees included the Environment, Open Space and Parks, Economic Development, Culture and Tourism, Land Use, Landmarks, and Planning. Community organizations also attended and provided testimony in opposition to the project, including Carnegie Hill Neighbors Association and the East 96th Street Neighbors Association. As a result, CB11's approval is contingent on the following commitments:

1. By the developer, to work with CB11, the New York City Department of Housing Preservation & Development (HPD), and the office of Council Speaker Melissa Mark-Viverito in seeking subsidies from HPD to increase the percentage of permanently affordable units from the stipulated 30% to 50%, that some units are designated for seniors, and that the developer disclose the exact number of residential units of each category and size to be built;
2. Explore alternative designs that reduce the height of the residential tower;
3. Fund commitments to workforce development, OSHA training, construction training, and provide assistance with pipeline capacity and "First Source" hiring programs, and in identifying job opportunities for residents of East Harlem during the duration of the project;
4. Ensure local hiring and that 35% of all construction positions for union and non-union East Harlem residents are paid at minimum prevailing wage (\$40 P/H) or higher depending on skill and experience, and that there be a target of 50% local hiring for all post-construction positions;
5. Seek to ensure that local East Harlem MWBE/LBE organizations receive 35% of all construction contracts;
6. Provide internship opportunities, property/project management training, and skillset enhancement for East Harlem hires;
7. Create a systematic hiring program that provides for quarterly review of the progress toward the goals of condition #4;
8. Provide retail space at reduced cost for local East Harlem retail establishments displaced by the project, as well as assistance to small businesses in sustaining their operations with below-market rents and counseling services if needed;
9. Repurpose designated retail space at a reduced rent for locally-based community health and human service providers;

10. By the NYC Department of Education, to provide priority enrollment for students residing in East Harlem applying to Heritage High School, Park East High School, and COOP Tech;
11. By the NYC Department of Parks and Recreation, to establish “open play” hours during which community access to the playing field will be unrestricted, and incorporate adult fitness opportunities in the Marx Brothers Playground.

BOROUGH PRESIDENT COMMENTS

The proposal under consideration is an ambitious plan with a complicated funding strategy that seeks to achieve a number of important public policy objectives on one full block site in East Harlem. The public benefits include new school facilities, a renovated playground, and a substantial amount of new affordable housing. However, serious concerns remain about the design, school planning, and congestion that must be addressed.

My office sought a wide range of opinions to strengthen our own evaluation of the proposal’s objectives, the magnitude of its impacts, the thoroughness of the community engagement, and the applicant’s responsiveness to integrating public input into the programming and design of the development. My office has communicated with Community Board 11, the local Council Member, the principals of the affected schools, local organizations such as Carnegie Hill Neighbors Association, East 96 Street Neighbors, neighborhood planning advocates, and community residents. The testimony they and others provided included strong objections to the height of the tower, the shadow it will cast, vehicle and pedestrian safety issues, as well as concerns with the project as urban design.

Both at the Community Board and in meetings with stakeholders, alternative scenarios were put forward in an attempt to distribute the residential massing more broadly and address concerns about excessive height. The most often cited alternative involves building two separate towers; one building would be on Second Avenue and one on First Avenue, 430 and 455 feet tall respectively. Each building would include some school facility space with the JOP remaining in the center of the block. When I asked the developer to present to us their analysis of these alternatives, each proposed alternative compromised the layout and programmatic needs for the educational spaces. Nevertheless, I believe that the community’s proposed revisions should remain a base line for alternative approaches to the use of the site.

Under the current plan, Park East High School and Heritage High School would be relocated to a new state-of-the-art facility on the project site. The proposed school designs would improve the internal movement of students and staff, create an appropriately sized cafeteria, gym and auditorium available to both schools, and offer close proximity to open space, and with it a chance to expand athletic program collaboration between the schools that now includes 16 teams. COOP Tech is an important part in the City’s push to help students seeking vocational education and internships. The principal of COOP Tech told us that the new building would dramatically shorten waiting lists by adding facilities for popular trades, up-date building systems to better handle machinery, create efficiencies, and centralize storage. According to the applicant, across

all three schools there will be a 60 percent increase in total classroom space and 45 seats and 95 seats at Park East High School and Heritage High School, respectively.

The project as planned would also open up space in community facilities. With the relocation of the Heritage High School to the project site, two floors of their current home at The Julia de Burgos Performance & Arts Center (JdBPAC) could be repurposed for use by visual and performance artists- fulfilling a need cited among recommendations in the East Harlem Neighborhood Plan and in community conversations around CREATENYC for cultural space targeted to not-for-profits and local creators. There is also concern about the future of the building that now holds Park East High School if the relocation goes forward. The applicant has assured us that DOE is committed to using the five-story, 40,000 square foot building for educational, community-oriented use. I would urge the DOE to work collaboratively with the CEC, CB11 and members of the EHNP steering committee on how best to maximize that opportunity.

As for the impact on open space, the community has been waiting ten years for the completion of the Second Avenue subway and a full restoration of the Marx Brothers Playground. My understanding is that planning for the interim use of the playground is ongoing; my office is prepared to participate to assist the MTA in vacating the site and restoring JOP to active use. In our conversations with the developer, we have stressed that despite renovation of the playground a large increase in residents will create new stresses on the existing open space. To that end the developer has agreed to work with DPR and our office to fund meaningful improvements to Stanley Isaacs Playground.

The special permits related to waiving or modifying requirements for bulk, building setbacks, street wall, and parking are appropriate. They help to maximize the amount of affordable housing and allow for the programmatic needs of the schools and playground. The building is well served by transit and the likelihood of a high parking demand for residents is low. At street level, the applicant is reducing the number of curb cuts and designing the opportunity for a vibrant sidewalk and active streetscape, all of which are good planning policies I've supported in the past.

The affordable housing is a major benefit to the neighborhood. The developer's commitment to go above the required minimum of MIH, without subsidy from the city, is laudable. According to the analysis done by the EHNP, East Harlem is expected to lose 282 affordable units on average per year between 2014 and 2029. This project will help offset that loss.

That said, the project falls far short of meeting the need for affordable units in East Harlem. According to the EHNP, 37 percent of residents make \$23,350 or less. After discussing this with my staff, I believe we can reach even deeper levels of affordability than are currently planned. I would encourage the Commission, the local Council Member and the developer to work with our office to find a way to set the affordability threshold below 40 percent so that this project can meet the needs of a greater range of East Harlem families.

This project seeks to provide public benefits in addition to affordable housing. Although I often express objections to increases in height and density, I believe that this project, with additional modifications, has the potential to deliver on several key community needs as outlined in the East Harlem Neighborhood Plan, and that it adheres to planning guidelines that support density near mass transit.

In response to strong community concerns about the project's height, the developer has committed to me that they will shorten the height of the building by 5 floors or approximately 50 feet. While this is not a large reduction, it avoids impacting the design of the schools and other facilities, and it leaves all the affordable units in place. Our hope is that this kind of balancing of interests can serve as a foundation and foster improved cooperation as ULURP moves forward.

As it stands, the project represents a major infrastructure and affordable housing investment for East Harlem. The \$508 million in public benefits and permanent affordable housing will require a marginal amount of city dollars but provide a substantial public benefit. I believe the project can be significantly improved by lowering the AMI tiers to better match the needs of extremely low and low-income tenants and to finalize an investment agreement with DPR for open space improvements outside the site. I look forward to working with the community, CPC, and the local Council Member on these continuing shared goals.

Please find attached a commitment letter memorializing the discussions my office and I have had with the applicant.

BOROUGH PRESIDENT RECOMMENDATION

Therefore, the Manhattan Borough President recommends approval with conditions of ULURP Application No C 170226 ZMM, C 170228 ZSM, and C 170229 ZSM provided that the applicant:

- provide our office with updated drawings that reflect the new lower height of the residential building facing Second Avenue;
- work with our office, Community Board 11, the local Council Member, and the City to reach deeper levels of affordability below 40 percent on the income-restricted units;
- work with our office, Community Board 11, the local Council Member, and the City to continue to explore an alternative design scenario that reduces the height of the residential tower even further;
- work with DPR and our office to fund meaningful improvements to Stanley Isaacs Playground;
- create a tower design that ensures light and air to the surrounding streets and public spaces through the use of setbacks, recesses and other forms of articulation, and the tower top produces a distinctive addition to the Upper Manhattan skyline which is well-integrated with the remainder of the building;
- create a tower design that demonstrates an integrated and well-designed façade, taking into account factors such as street wall articulation and amounts of fenestration, which

- create a prominent and distinctive building which complements the character of the surrounding area, especially the nearby historic districts; and
- a commitment by the developer to provide regular updates to the Board, on measures being taken related to:
 - review and approvals by the Department of Environmental Protection that will be needed to address appropriate sanitary flow and storm water source controls;
 - development of a Construction Protection Plan (CPP) in relation to the identified historic and cultural resources nearby;
 - progress on the traffic signal timing changes as part of the traffic mitigation measures cited in the environmental review;
 - selection of a qualified, experienced local community-based organization to create a housing outreach plan that encourages local residents to apply and provides credit counseling well in advance of the application process.
 - address errors in the draft environmental review related to school sites; for example, removing JHS 13 from the list of schools in Table 4-4, and adjusting the calculations for that chapter accordingly;
 - ensure that the discussion of future educational uses for the Park East High School site include not only DOE and CEC, but also broad-based community participation.



Gale A. Brewer
Manhattan Borough President

NEW YORK CITY EDUCATIONAL CONSTRUCTION FUND
30-30 THOMPSON AVENUE
LONG ISLAND CITY, NEW YORK 11101

AVALONBAY COMMUNITIES, INC.
1633 BROADWAY, SUITE 22B
NEW YORK, NEW YORK 10019

April 27, 2017

Hon. Gale Brewer
President, Borough of Manhattan
Municipal Building
One Centre Street, 19th Floor
New York, New York 10007

Re: ECF 96th Street (1860 Second Avenue)
ULURP Nos. 170229 ZSM, 170228 ZSM, 170227 ZRM, 170226 ZMM

Dear Borough President Brewer:

In connection with your review of the proposed ECF mixed-use project at 1860 Second Avenue, please be advised that the joint applicants, the New York City Educational Construction Fund and AvalonBay Communities, Inc., agree as follows:

1. Reduce the height of the residential building on Second Avenue from 68 stories to 63 stories. We will provide your office with updated drawings reflecting this reduction as design work proceeds.
2. Work with your office, Community Board 11 and Council Speaker Viverito to reach deeper levels of affordability for the 40% AMI units.
3. Work with your office, Community Board 11 and Council Speaker Viverito to continue to explore alternative designs for the residential building on Second Avenue that will further reduce the height and are consistent with the Project's goals and within the scope of the pending ULURP applications.
4. Work with your office and the Department of Parks and Recreation to identify and assist in funding, as feasible, meaningful improvements to Stanley Isaacs Playground.
5. Develop a high-quality and distinctive design for the residential building on Second Avenue which respects the character of the surrounding area, including such elements as façade treatment, fenestration and other architectural elements.

Hon. Gale Brewer
April 27, 2017
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6. Provide Community Board 11 with periodic updates on the Construction Protection Plan for Life Sciences Secondary School, the traffic mitigation measures identified in the Draft Environmental Impact Statement and sanitary and stormwater discharge measures.

7. Revise the DEIS to update the analysis as needed (including removing JHS 13 from the list of schools in Table 4-4).

8. Provide Community Board 11 with periodic updates on the conditions set forth in the Board's Resolution dated March 21, 2017.

9. Undertake a collaborative process with representatives of the community on the future of the Park East High School site.

We believe that three new high schools, significant amount of affordable housing and a renovated Marks Brothers Playground provide significant benefits to the East Harlem community as well as to the City. We want to thank you for your thoughtful and comprehensive review of this important project and look forward to working with you as the project proceeds.

Very truly yours,



Jennifer Maldonado, Executive Director
New York City Educational Construction Fund



Martin Piazzola, Senior Vice President
AvalonBay Communities, Inc.