

Borough President Recommendation

City Planning Commission
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INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission at the above address.
2. Send one copy with any attachments to the applicant's representative as indicated on the Notice of Certification.

Applications: C 170444 ZSM, N170443 ZRM, and C 170442 ZMM

Docket Description:

C 170442 ZMM

IN THE MATTER OF an application submitted by NBT Victory Development LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section 6a, changing from a C4-4A District to a C4-7 District property bounded by Fifth Avenue, East 126th Street, a line 85 feet easterly of Fifth Avenue, and East 125th Street/Dr. Martin Luther King Jr. Boulevard, Borough of Manhattan, Community District 11, as shown on a diagram (for illustrative purposes only) dated June 5, 2017 and subject to the conditions of CEQR Declaration E-435.

Borough of Manhattan, Community District 11.

(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)

See Attached


BOROUGH PRESIDENT

September 13, 2017
DATE

C 170444 ZSM

IN THE MATTER OF an application submitted by NBT Victory Development LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-533 of the Zoning Resolution to waive 72 required accessory off-street parking spaces for dwelling units in a development within a Transit Zone, that includes at least 20 percent of all dwelling units as income-restricted housing units, in connection with a proposed mixed use development, on property located at 2031-2033 Fifth Avenue (Block 1750, Lot 1), in a C4-7 District, Borough of Manhattan, Community District 11.



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THE CITY OF NEW YORK

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Gale A. Brewer, Borough President

September 13, 2017

**Recommendation on ULURP Application No.'s C 170444 ZSM, N170443 ZRM, C 170442 ZMM – National Black Theater
By NBT Victory Development LLC**

PROPOSED ACTION

The National Black Theater Victory Development LLC (“NBT Victory Development LLC” or “the Applicant”), seeks: (1) a special permit pursuant to Section 74-533 of the Zoning Resolution (“ZR”) to waive 72 required accessory off-street parking spaces for dwelling units in a development within a Transit Zone¹; (2) a zoning text amendment to map a Mandatory Inclusionary Housing (“MIH”) designated area on the development site; and (3) an amendment to the Zoning Map to change a C4-4A zoning district to a C4-7 zoning district in order to facilitate the development of a 20-story mixed-used building at 2031-2033 Fifth Avenue (Block 1750, Lot 1) in a C4-4A district within the Special 125th Street District in Community District 11, Borough of Manhattan.²

Pursuant to ZR §74-533, the City Planning Commission (“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 the CPC finds that such waiver or reduction:

- a) Will facilitate such development or enlargement. Such finding shall be made upon consultation with the Department of Housing Preservation and Development;
- b) Will not cause traffic congestion; and
- c) 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.

Additionally, the CPC may impose appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

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, the Borough President’s office

¹ The Transit Zone area of Manhattan is within the boundaries of Community Districts 9, 10, 11 and 12. The Transit Zone includes at least 20 percent of all dwelling units as income-restricted housing units, in connection with a proposed mixed-use development.

² The applicant also anticipates a Chairperson’s certification for a Visual or Performing Arts bonus for the National Black Theater under the Special District text pursuant to ZR §97-00.

must consider whether the amendment is appropriate and beneficial to the community and consistent with the goals of the MIH program.

PROJECT DESCRIPTION

The applicant seeks: (1) a zoning map change from a C4-4A district to a C4-7 district; (2) zoning text amendments to the Special 125th Street District to map a MIH designated area on the Development Site; and (3) a special permit to waive 72 off-street parking spaces to facilitate the development of a 20-story mixed use building at 2031-2033 Fifth Avenue. The applicant proposes to develop a mixed use building containing residential units, commercial retail space, and a new visual performance theater.

The project site has a total lot area of 17,000 square feet and occupies the full easterly block with 200 feet of frontage along Fifth Avenue and 85 feet of frontage between 125th and 126th Streets. The existing 3-story building consists of 74,000 total square feet of floor area with 30,000 square feet used by the National Black Theater and 34,000 square feet used for commercial office and retail use with a total floor area ratio (“FAR”) of 3.76. The applicant proposes a 245 foot tall, 203,128 square foot building consisting of 148,827 square feet of residential use, 24,951 square feet of retail use, and 26,900 square feet to be used by the National Black Theater. The applicant proposes 11.96 FAR.

Although a specific development project would not be formulated until after the completion of the ULURP, the building as currently proposed by the applicant will contain retail use and storage in the cellar, the lobby entrance for the National Black Theater is proposed on the ground floor facing Fifth Avenue and would occupy the third and fourth floors with classrooms, offices, a double-height theater and a black-box theater; the retail entrances would be accessed on all three street frontages and occupy most of the second floor; and, the residential entrance is proposed to be located on 126th Street with the 248 residential units distributed between floors 5 and 20.

Background

The National Black Theater, is a nationally recognized, non-profit cultural and educational institution and a community-based theater founded in 1968 by Dr. Barbara Ann Teer to showcase productions by and about black Americans. The National Black Theater also offers children’s programs and classes, workshops, dramatic and musical performances and lectures. The applicant acquired the development site in 1983, which was eventually conveyed in 2012, with assurances to stay on the site. This proposal is to ensure that the National Black Theater has a permanent place in the proposed building.

Following a study in 2008 by the Department of City Planning, NYC agencies, an advisory committee consisting of elected officials, civic groups, cultural institutions and Community Boards 9, 10, and 11, the Special 125th Street District was adopted. The district extends 24 blocks between Second Avenue to the east, 124th Street to the south, Broadway to the west, and 126th Street to the north and connects West, Central, and East Harlem. The purpose of this

rezoning was to preserve the special character of 125th Street by expanding the retail and commercial character of the street and to encourage the development of visual and performance arts spaces in the neighborhood. The rezoning allows for contextual development.

Area Context

The project site is located on the western boundary of the East Harlem neighborhood in Manhattan, Community Board 11. The East Harlem Neighborhood is north of the Upper East Side and generally bounded by East 96th Street to the south, Fifth Avenue to the west, East 142nd Street to the north and the Harlem River to the east. The major commercial corridors in the area are along 116th Street and 125th Street, and Second and Third Avenues. The site is located within the Special 125th District, approximately 400 feet east of the Core Sub-District. The project area is mostly surrounded by commercial/office space and residential buildings that are mostly one to two-family residential brownstones. Immediately north of the site is a multi-family walkup that lies on a block of mostly one to two-family residential brownstones. Immediately south of the site is an empty lot. West of the site are commercial and office spaces for Manhattan Legal Services and the African Day Parade office. Finally, east of the site are one to two-family residential buildings to the north and commercial and offices spaces to the south that are home to organizations like the Holy Ghost Pentecostal Church and H & M Art Gallery of Harlem. At the end of the block is Promise Academy, a charter school.

Other educational institutions in the area are the CUNY School of Public Health, Harlem Village Academy High School and the Harlem Branch of the New York Public Library. Besides the Holy Ghost Pentecostal Church, the Metropolitan Community United Methodist Church, St James and St Philip AME Church, and the Greater Calvary Baptist church are other religious institutions that within a block radius of the site. A block south of the site lies the Marcus Garvey Park.

The site's area is served by multiple modes of public transportation. The Nos. 2 and 3 subway lines are one block west of the development site at Malcolm X Boulevard and the Nos. 4, 5 and 6 subway line is located one block east of the site at Lexington Avenue. There are also bus routes along 125th Street: Bx15; M100; and M101; Additional bus lines along Fifth Avenue are: BxM3; BxM4; and M1.

Proposed Actions

In 2008 when the 125th Street Special District was adopted, an upzoning was deferred at the National Black Theater's request. Now the applicant seeks (1) a special permit pursuant to ZR Section 74-533 to waive 72 required accessory off-street parking spaces for dwelling units in a development within a Transit Zone; (2) a zoning text amendment to map an MIH designated area on the development site; and (3) an amendment to the Zoning Map to change a C4-4A zoning district to a C4-7 zoning district in order to facilitate the development of a 20-story mixed-used building at 2031-2033 Fifth Avenue.

Zoning Map Change

A Zoning Map Amendment to Zoning Map 6a requires approval by the CPC. This would change the zoning on the Project Site (Block 1750, Lot 1) from C4-4A (a residential R7A equivalent) to C4-7, a higher density residential R10 district equivalent). This will permit an increase in residential and commercial Floor Area Ratio from 4.0 to 10.0. There will be no change in permitted Use Groups.

Zoning Text Amendment

Complementary to the zoning map amendment allowing for a change in use and an increase to the permitted residential floor area ratio, a zoning text amendment to modify Appendix F of the Zoning Resolution to apply MIH requirements to the site is required.

The text amendments would also permit the National Black Theater's Marquee, signage and entrance to be located on Fifth Avenue where they have historically been located.

There is also an application for a text amendment to modify glazing, transparency and accessory signage regulations on 125th Street which would permit a portion of the façade to be opaque. The larger performance spaces, the Black Box Theater and the Theater in the Round have been historically without windows and this amendment would facilitate the continuation of that design.

Although a specific development project would not be formulated until after the completion of the ULURP and the issuance of a Commissioner's Certification granting the Visual Performance Art Bonus, it is projected that the Project Site would be developed with a new mixed-use development pursuant to the design envelope allowed by these actions.

Zoning Special Permit

The proposed project will provide up to 72 affordable dwelling units, depending on the MIH affordability option selected. Because these affordable units would not require accessory parking, the special permit sought would waive the requirement for these spaces.

COMMUNITY BOARD RECOMMENDATION

At its full board meeting on August 9, 2017, Manhattan Community Board 11 (CB11) adopted a resolution recommending approval of the application by a vote of 30 in favor and 1 abstention.

The resolution echoed the overwhelming support this project proposal has received throughout the ULURP. It stressed the importance of the fact that the National Black Theater is a minority owned business, that it will retain ownership of the theater space, and that the project will advance the Arts and Culture goals of the East Harlem Neighborhood Plan. It is also important to note that the Community Board requested that all efforts be made to maximize the number of affordable units, and it concluded with a request to keep communication lines open as a means to ensure that the commitments made to the community are kept.

BOROUGH PRESIDENT COMMENTS

For nearly five decades the National Black Theater (“NBT”) has been a cultural refuge, an incubator for Black performance art, and an educational resource in the heart of Harlem. In the 1960s Dr. Barbara Ann Teer sought to create a space where Black performance artists and theatergoers could find refuge and inspiration during a turbulent period in the nation’s history. The National Black Theater was born and became a place where stories about Black Americans by Black Americans were told to whoever wanted to listen. Dr. Teer is quoted as saying that she wanted the theater to feel like a home away from home. Throughout this ULURP process, numerous community members made it abundantly clear that Dr. Teer’s wish became reality and the theater she built has served as a home for countless visitors and patrons, over 300 original theater works, lectures, workshops, and children’s programs and classes. Now, her children are working to ensure that their mother’s legacy and the place she nurtured for her community will live on into the future. We should support that work.

The proposed project which is expected to contain ground floor retail, the new National Black Theatre on the second and third floors and residential units triggering the MIH requirements on the upper floors, will advance two important goals. First, it will secure and expand the art and cultural infrastructure in Harlem; and second, it will create much needed permanent affordable housing.

Members of my office and I have met with the applicant on multiple occasions throughout the Pre-ULURP and ULURP phases. During those conversations the applicant has informed us that it intends to create affordable units with the deepest affordability levels under the MIH program so that the units created are made affordable to the existing residents of Harlem. The applicant also provided financial documentation that had been submitted to the Department of Cultural Affairs for a city capital funding application. This is a robust process demanding a business plan and strong commitment to the cultural mission. We have since learned that the NBT was awarded \$10.5 Million in capital funding for Fiscal Year 2018 from both the Mayor and the City Council in support of the proposed Visual Performing Arts (“VPA”) development.

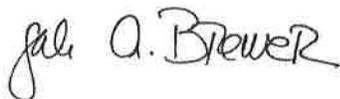
The proposed zoning map change to a C4-7 District and complementary text amendment should create a framework for a new building that is consistent with neighborhood context and with the East Harlem Neighborhood Plan’s goals of affordable housing and cultural space. The Project Area to its east and west is currently sandwiched between two C4-7 districts which permit a mix of commercial and residential uses. There are also several buildings in close proximity to the Development Site that stand between 11 stories and 19 stories in height. The proposed rezoning will provide consistency in zoning requirements by having a continuous C4-7 District along West 125th Street. In addition, it is appropriate to permit higher density on the corner of two wide thoroughfares.

I have expressed concerns about recent applications that would grant significant increases in bulk and height without certainty in regard to final program and design. And this office has commented in the past on the dangers of approving projects prematurely. We do not want a building that rises to a height not previously disclosed, one with units at affordability levels not appropriate to the neighborhood, or cultural programming space that is less prominent and visible than the application currently anticipates, even though outcomes such as these would be permitted by the proposed zoning changes.

However, here the mission driven nature of the proposal and a continued ownership stake by the non-profit gives me a level of security that I may not otherwise have. I have repeatedly advocated for such an ownership model for proposals pursuing affordable housing and find that this model will work for cultural use and ensuring the legacy of the NBT in perpetuity. I would encourage the National Black Theater development team to return to the Community Board and the Borough President's Office when their program and building design is more settled and urge the Commission to direct them to do so.

BOROUGH PRESIDENT RECOMMENDATION

The Manhattan Borough President recommends approval of ULURP application numbers C 170444 ZSM, N170443 ZRM and C 170442 ZMM.

A handwritten signature in black ink that reads "Gale A. Brewer". The signature is written in a cursive, slightly slanted style.

Gale A. Brewer
Manhattan Borough President