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Gale A. Brewer, Borough President

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**Recommendation on ULURP Application No. C 180481 ZMM
East 53rd Street Rezoning
By 245 East 53rd Street Realty, LLC**

PROPOSED ACTIONS

245 East 53rd Street Realty, LLC (“the applicant”) is seeking the following actions:

- (1) Zoning map amendment to Zoning Sectional Map 8d to add a C2-5 overlay to an existing R8B zoning district, bounded by a line 150 feet easterly of Third Avenue, a line midway between East 54th Street and East 53rd Street, a line 100 feet westerly of Second Avenue, a line midway between East 53rd Street and East 52nd Street, and a line 160 feet easterly of Third Avenue and East 53rd Street. This zoning map amendment is located in the Turtle Bay neighborhood of Manhattan Community District 6.

PROJECT DESCRIPTION

The applicant seeks a zoning map amendment to add a C2-5 overlay over an existing R8B district along the interior portion of the north and south frontages of East 53rd Street. This action will facilitate the conversion of a ground floor community facility space to commercial use in a 6-story mixed-use, 5-residential unit building located at 245 East 53rd Street (Block 1327, Lot 19), midblock between Second and Third Avenues (“Proposed Development”) (Department of Buildings Job Number 121190451).

The amendment to the zoning map would affect the surrounding interior lots along the northern frontage of East 53rd Street (Block 1327, Lots 11, 13, 14, 15, 16, 17, 18, 19, 20, and a portion of Lot 5) as well as the interior lots along the southern frontage of East 53rd Street (Block 1326, Lots 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 140, and portions of Lot 1, 7, and 10; hereafter “the Rezoning Area”). Of these 27 lots, 19 have existing non-conforming commercial uses and four have community facilities. The zoning map amendment to add a C2-5 overlay would allow commercial uses, which already exist throughout much of the Rezoning Area, to be as-of-right. These 27 lots are not under control of the applicant but are included to make the proposal comprehensive and rational.

Background

Before 1961, the Rezoning Area was zoned for commercial use and had a permitted height factor of 1-½ times the width of the street. In 1961, the area was zoned as R8. The underlying R8B district was mapped in 1987, pursuant to the Turtle Bay Midblock Rezoning (C 870963 ZMM). The area was contextually rezoned to limit the development of buildings out of context with the built conditions of the surrounding area. The R8B district runs on the interior portions of Blocks 1321 through 1327 between 48th and 53rd Streets and Second and Third Avenues. The western sides of these blocks are zoned C6-6 and the eastern portions are zoned C1-9, which permit a wide range of commercial uses as-of-right.

The current R8B district permits residential and community facility uses (Use Groups 1-4) with a maximum FAR of 4.0 and primarily produces contextual 5- to 7-story apartment buildings. Within R8B districts, Quality Housing regulations are mandatory. The maximum height for buildings in R8B districts is 75 feet with a base height of 55-65 feet. To provide for continuity, street wall heights of new buildings on lots up to 50 feet wide must be as deep as one adjacent street wall but no deeper than the other. Setbacks of 15 feet are required on narrow streets and 10 feet along wide streets. Parking is not required in this area pursuant to ZR §13-10.

Proposed Development

The proposed C2-5 commercial overlay on an existing R8B zoning district will facilitate the conversion of the Proposed Development's ground floor community facility space to commercial use. The Proposed Development, which has already been built, is a 6-story, 60' tall, mixed-used building of 9,546 zoning square feet ("ZSF") (3.8 FAR) within Block 1327, Lot 19 ("Development Site"). The Development Site is located approximately 125 feet west of the intersection of 2nd Avenue and East 53rd Street, and has 25 feet of frontage along the north side of East 53rd Street and a depth of approximately 100 feet. The Proposed Development Site includes an interior lot of 2,510 square feet, located on the north side of East 53rd Street between Second and Third Avenues.

The Proposed Development would contain a 2,510 square foot cellar, which is not counted as zoning floor area, and five residential units comprising 7,955 ZSF of floor area, located on floors two through six with one residential unit per floor. With the proposed C2-5 overlay, the project would contain 1,591 ZSF of commercial floor area on the ground floor. The cellar would be used as accessory space to the proposed ground floor commercial use, as well as accessory space for the proposed residential units above.

Area Context

East 53rd street is a recognized commercial thoroughfare, given its proximity to Midtown's core. It contains predominately mixed-use (commercial-residential) buildings, community facilities, and entirely commercial buildings. Second and Third Avenues are major north and south commercial thoroughfares while East 53rd Street runs one-way west and contains mixed-use (commercial-residential) and community facility buildings, typically ranging from 5 to 12-stories. Buildings along avenues to the east and west are typically much taller, with commercial buildings rising up to 43-stories in height. A majority of the mixed-use buildings on the subject block are relatively narrow and contain between 18 and 40 feet of lot width and frontage.

Of the 27 properties that are proposed to be rezoned as part of the instant proposal, 19 already contain commercial uses despite the underlying residential (R8B) zoning. Of the properties with commercial uses, the majority appear to be nonconforming uses that are grandfathered from the historic commercial zoning and only three properties had never obtained a Certificate of Occupancy. There are no ground floor residential uses present in the Rezoning Area.

The Rezoning Area is well-served by public transit with the E, M and 6 subway lines at Lexington Avenue & 53rd Street Station. The M15 bus runs north along First Avenue and south along Second Avenue. The M15 bus runs along First Avenue (north) and along Second Avenue (south), and the M101, M102, and M103 buses all run along Third Avenue (north) and Lexington Avenue (south).

Proposed Actions

The Applicant requests a zoning map amendment to create a C2-5 commercial overlay over an existing R8B zoning district in the Turtle Bay neighborhood of Manhattan Community District 6. C2-5 is commercial overlay that permits a wide range of neighborhood commercial retail uses (Use Groups 5-9 and 14) at a maximum of 2.0 FAR when mapped in R8B districts. The C2-5 district is typically mapped in dense areas close to transit and waives out of accessory parking requirements on most small lots. The Applicant argues that the proposed zoning map amendment would be consistent with previously approved City Planning Commission (CPC) actions that recognized East 53rd street as a commercial thoroughfare, such as the 2001 expansion of the Museum of Modern Art (C 000651 ZSM) and the Greater East Midtown Rezoning of 2017 (N 170186 ZRM), and would also be consistent with existing C2-5 commercial overlays present to the north at East 64th, East 63rd, East 62nd and East 61st Streets between 1st and 2nd Avenues. As these corridors are less mixed-use in nature when compared to the Rezoning Area, the Applicant argues that the proposed C2-5 commercial overlay is appropriate for this mid-block location along East 53rd Street between Second and Third Avenues.

In addition to the above zoning map amendment, the presence of the Development Site in a Special Transit Land Use District requires a zoning certification pursuant to ZR 95-041, which ensures that New York City Transit (NYCT) is notified of any new development within the area. As noted above, an approval was obtained for the Development Site in October of 2003 (N 040069 ZCM; 2-CPC-262) and no further actions are needed from the CPC or NYCT to facilitate the Proposed Development.

COMMUNITY BOARD RECOMMENDATION

The applicant, 245 East 53rd Street Realty, LLC, presented their formal ULURP presentation of the proposed rezoning at the December 10, 2018 Manhattan Community Board 6 (CB6) public hearing. On December 12, 2018, CB6 voted by a vote of 37 in favor, 0 opposed, 1 abstention, to approve Application C 180481 ZMM for a C2-5 commercial overlay. A quote from the resolution follows below:

“The Board finds nothing objectionable to the proposed zoning map amendment, but would nevertheless hope to preserve the residential nature of the project area and respectfully requests that the Department of City Planning endeavor to maintain the project area as residential for the foreseeable future, to include a period of at least 25 years.”

BOROUGH PRESIDENT’S RECOMMENDATION

It is clear that this block of East 53rd Street has been in need of an updated zoning designation that accurately reflects the block as a significant commercial corridor. Of the affected 27 tax lots, this requested commercial overlay would legalize 19 lots with currently nonconforming commercial uses, a majority of which appear to be grandfathered from historic commercial zoning. I believe that a commercial overlay, rather than a commercial district, is the appropriate zoning tool to continue to enhance the character of the block with its residential buildings with ground floor retail.

I do not envision that these existing commercial nonconforming uses will relocate in the future, nor do I foresee that the area will become a solely residential neighborhood as suggested by the area’s R8B zoning. The C2-5 overlay formalizes East 53rd Street as a transition from the heavier commercial uses of midtown to the more residential character of the East 50s. In addition, the requested C2-5 overlay is consistent with previous actions that mapped C2-5 overlays on the blocks of East 64th, East 63rd, East 62nd and East 61st Streets between 1st and 2nd Avenues.

Finally, in a time in which retail is struggling across the city, we should not let the broad brush of the 1961 citywide rezoning hinder our retail sector. When appropriate, such as in this case, commercial overlays on side streets can provide more available space for our small businesses.

Therefore, the Manhattan Borough President recommends Approval of ULURP Application C 180481 ZMM.



Gale A. Brewer
Manhattan Borough President