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Mark Levine, Borough President

November 20, 2023

**Recommendation on ULURP Application Nos. 230241ZMM and N230242ZRM – 207-245
East 94th Street
By LM East 94 LLC**

PROPOSED ACTIONS

LM East 94 LLC (the “Applicant”) is proposing several land use actions to facilitate the development of a mixed-use building located at 207-245 East 94th Street (Block 1540, part of Lot 5 and Lots 6, 10, 111, 13, 14, and 18) in Manhattan Community Board 8 (the “Proposed Building”).

The Applicant proposes the following actions:

1. Zoning Map amendment to change a portion of the Development Site (Block 1540, Lots p/o 5, 6, 10, 111, 13, 14, and p/o 18) from a M1-4 district to a C2-8 and C4-6 zoning district pursuant to Section 197-c of the New York City Charter.
2. Zoning text amendment to Appendix F of the Zoning Resolution (ZR) to establish a Mandatory Inclusionary Housing (MIH) boundary within the Development Site.
3. MTA/CPC Certification per ZR 95-041 that a transit easement volume will not be required on the Development Site.

These actions would facilitate the development of a new 46-story mixed use building containing approximately 452 units of housing, of which approximately 113 units would be permanently affordable under the Mandatory Inclusionary Housing (MIH) Program. The building will also include a community facility and/or commercial use.

BACKGROUND

The Development Site is currently zoned M1-4. Historically, this part of the borough contained industrial and commercial uses, including the Ruppert Brewery which was located on the blocks to the south of the Development Site and operated from the 1860s until it closed in 1965. The Ruppert Brewery and Ehret’s Hell Gate Brewery occupied most of the area from East 90th to East 94th Streets between Second and Third Avenues during this time, though Hell Gate closed in the late 1920s¹.

In 1968 the area from East 90th to 94th Streets between Second and Third Avenues was approved as the Ruppert Brewery Urban Renewal Area (RBURA). A Large Scale Residential

¹ [Upper East Side/Streetscapes - Empires of Rival Brewers - The New York Times \(nytimes.com\)](https://www.nytimes.com/2013/05/12/nyregion/upper-east-side-streetscapes-empires-of-rival-brewers.html)

Development was approved within the RBURA in 1971, which resulted in the development of high-rise residential buildings, retail, and open space. The RBURA expired in 2008. The Development Site was not included in the Urban Renewal Area, therefore the northern side of the block retained the residual M1-4 zoning.

Residential development is not permitted in manufacturing districts. M1-4 districts allow use groups 4-14, 16, and 17, which include community facility, commercial, and light manufacturing uses. M1-4 districts have a maximum floor area ratio (FAR) of 2.0 for commercial uses and 6.5 for community facility uses.

The Rezoning Area was identified in the Office of the Manhattan Borough President’s 2023 Housing Manhattanites report as a potential area for rezoning, to change the manufacturing area to one that allows for residential uses. The Development Site was also identified as one of five potential sites for housing in Community District 8.

Proposed Development

The proposed actions would facilitate a 46-story building containing approximately 385,381 square feet of floor area, with 452 residential units, 113, or 25%, of which will be income restricted, permanently affordable housing pursuant to MIH. The Applicant plans to use MIH Option 1, which requires that a quarter of the units be affordable at an average of 60% of the Area Median Income (AMI). These are the first units proposed to be built under MIH in Community District 8. The Applicant proposes the following breakdown for the units:

Income Band	AMI Band	Number of Units	Percentage of Units
Very Low Income	40%	45	10%
Low Income	60%	68	15%
Not Income Restricted	N/A	339	75%
Total		452	100%

The Applicant proposes rezoning the Development Site from a M1-4 to a C4-6 district on the western portion of the Site and C2-8 on the eastern portion of the Site. Both districts are R10 equivalent, which allows up to 12.0 residential FAR. The permitted FAR in C4-6 districts is 3.4 for commercial use and 10.0 for community facility use, and 2.0 for commercial use in C2-8 districts. Rezoning to C4-6 allows the existing commercial buildings on the western portion of the Development Site, which will not be demolished as part of the Proposed Building project, to remain compliant with the new zoning.

The proposed Development Site currently contains a parking garage and auto-repair shop on Lots 14 and 18, and a vacant residential building on Lot 13. The remaining Lots in the rezoning area include a rent stabilized 15-unit residential building on Lot 111, a four-story school gymnasium on Lot 10, and three commercial office buildings on Lot 6. Only the eastern five feet

of Lot 5, which contains a five-story residential building, are in the rezoning area. A zoning lot merger is proposed to combine all Lots in the rezoning area (except for Lot 5) to facilitate the transfer of air rights from Lots 6, 10, and 111 to the Proposed Building. The buildings on these lots would be maintained as they are.

The parking garage on Lots 14 and 18 contains 390 spaces that would be eliminated. There are 20 other off-street parking facilities within a quarter mile of the Development Site with a total capacity of over 3,000 parking spaces, with approximately 434-925 spaces available during the day and 1,452 available overnight. The auto-repair shop would also be demolished, though there are two other auto-repair shops within a quarter mile, and six additional shops within one mile.

Area Context

The Site is located in Manhattan Community Board 8 in the Yorkville neighborhood. The surrounding area is zoned C2-8, C4-6, R8, R8-B, R10, C8-4, with some additional commercial overlays on 96th Street.

A portion of the Site is located in the Special Transit Land Use District, which was established in 1973 in anticipation of the future Second Avenue Subway line. Developers in the district with projects adjoining planned subway stations are required to provide an easement for public subway access or other subway-related uses. The first phase of the Second Avenue Subway was completed in January 2017 and currently terminates at 96th Street and Second Avenue. The Applicant is seeking a CPC and MTA joint certification to determine whether a transit easement volume is required for public access for subway related uses, as the Second Avenue Subway is already operational.

The Site is well-served by transit, including the Q and 6 Subway lines, the M15 and M15 SBS, M96, M101, M102, and M103 buses.

According to the project's Racial Equity Report, Yorkville is in the category of "lowest" displacement risk relative to other neighborhoods in the City. In 2015-2019, an estimated 42% of households in the Upper East Side were rent burdened, compared to 46% in Manhattan and 53% citywide, and the median household income in the neighborhood was estimated to be almost \$40,000 higher than Manhattan's, \$126,884 compared to \$88,246. From 2010 to 2020, the number of housing units in the Upper East Side increased by less than 1% while population increased by 6%, compared to a 6% increase in housing units and 7% increase in population in Manhattan. This project would increase overall housing availability and affordable housing availability in a neighborhood that is considered "amenity-rich".

The surrounding area has multiple high-rise residential and mixed-use towers both in the mid-block and along the avenues. Those include four 35-story mixed use towers at Normandie Court (from 95th and 96th Streets between Second and Third Avenues), the Kent (200 E 95th Street), a 30-story mixed use tower, Astor Terrace (245 E 93rd Street), a 32-story tower, Carnegie Park (200 East 94th Street), a 31-story tower, and towers within the RBURA including Yorkville Towers, Ruppert Towers, and the Easton.

COMMUNITY BOARD RESOLUTION

The Applicant presented to the Zoning & Development Committee of Manhattan Community Board 8 (“CB 8”) on October 24, 2023. Subsequently, the Land Use Committee of the full board of CB 8 conducted a public hearing on November 8, 2023.

During these hearings, community members expressed support for the housing and the affordable housing this project would bring to the community in an area with good transit access. However, members of the community also expressed concerns about the building height, particularly in the mid-block, and loss of parking spaces. Community members and board members had questions on the bedroom mix, and while the Applicant said it would be a mix of studios, one-bedrooms, two-bedrooms, and some three-bedrooms, they will not be able to determine the exact mix until they are closer to final design. Questions were also raised about plans for the site prior to construction, which will be maintained with its current use, and construction management plans.

On November 8, 2023, the Land Use Committee of the full board of CB 8 voted to recommend approval of the application to change the zoning and map an MIH area on this area of East 94th Street with the following conditions:

1. That the percentage of affordable units be increased from 25% to 30% with the same terms as the initial application under MIH, including an average of 60% AMI;
2. That the building is required to be a rental building for at least 15 years;
3. That the site include open space;
4. That the building include 200 parking spaces to replace the existing parking garage;
5. That the building height be limited to a maximum of 355 feet;
6. That union labor or prevailing wage be used for project construction.

CB 8 also reiterated their support for maintaining R8-B in other areas where it currently exists in the Community District.

BOROUGH PRESIDENT’S COMMENTS

New York City is currently facing an affordability crisis, with the monthly average rent in Manhattan now up to \$5,400. There is a concerning shortage of affordable housing available, including on the Upper East Side. The affordable units to be built as part of this new project, which will be available to households earning below the area's median income, are crucial. Additional housing units are sorely needed in this part of the Upper East Side, where housing growth has not kept pace with the rest of the borough. This project will bring not only new housing, but also the first affordable units built under MIH in the neighborhood.

In our office’s Housing Manhattanites report we recommended rezoning of this manufacturing district, which no longer fits with the present-day character of the neighborhood. The zoning in this area of the Upper East Side should be updated to meet today’s needs.

I am pleased to see this project moving forward in a Community District where our office could only identify four other viable sites for housing opportunity.

While I understand the concerns raised by some community members and the Community Board regarding the loss of parking spaces in the existing garage, I believe that maximizing space for housing and community facilities should take priority over preserving parking spots. The parking study prepared by the developer shows existing capacity in garages within a quarter mile of the site. Instead of taking up space in the new building with cars when we could maximize space for housing and community uses, I ask the developer to help their existing garage tenants find parking spots elsewhere. I celebrate that building tenants will have the Second Avenue Subway at their doorstep, in addition to other subway and bus options in this transit-rich neighborhood.

Right now, this part of East 94th Street is restricted by outdated zoning that is not consistent with the neighborhood today. With this project, we will have more housing for Manhattanites instead.

BOROUGH PRESIDENT'S RECOMMENDATION

Therefore, I recommend **approval** of ULURP Application Nos. 230241ZMM and N230242ZRM **with the following conditions:**

1. Maximize the number of affordable units in the building by working with the City to find funding sources to increase affordable housing in Manhattan Community District 8;
2. Ensure a bedroom mix that reflects the needs of families in the district with the inclusion of two and three-bedroom units; and
3. Consider options for reducing building height within the as-of-right building envelope in the rezoning area that do not reduce the total number of units, including the number of affordable units.



Mark Levine
Manhattan Borough President