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Gale A. Brewer, Borough President

March 28, 2013

**Recommendation on
ULURP Application No. C 140070 ZMM – West 117th Street Rezoning
By 117th Street Equities, LLC**

PROPOSED ACTIONS

117th Street Equities, LLC¹ (“Artimus”) seeks approval of a **zoning map amendment** to change from an R7A district to an R8A district an area between West 116th and 117th Streets from St. Nicholas Avenue to a line 100 feet east of Frederick Douglass Boulevard. There is an existing R8A district, with a C1-4 overlay, mapped along Frederick Douglass Boulevard to a depth of 100 feet adjacent to the rezoning area. The proposed action is sought to facilitate the development of two residential mixed-use buildings and the creation of a community arts center in a former church in the Central Harlem neighborhood of Manhattan Community District 10.

PROJECT DESCRIPTION

Artimus proposes to shift the boundary of an existing R8A zoning district mapped along Frederick Douglass Boulevard to the east, to cover the entire block bounded by West 116th and 117th Streets between Frederick Douglass Boulevard and St. Nicholas Avenue. The rezoning would affect 11 tax lots covering an aggregate lot area of approximately 82,000 square feet. The proposed rezoning would help facilitate a mixed-use development on three tax lots (the “Development Site”) owned by the applicant on the eastern portion of the block. The project would include preservation of the building that formerly housed St. Thomas the Apostle Church (“Church Building”) as a community facility, the renovation and expansion of a vacant, five-story building originally constructed as the School of St. Thomas the Apostle (“School Building”), and the construction of a new, 12-story residential building.

Area Context

The surrounding neighborhood is characterized by a mix of residential buildings, with ground floor retail along most avenue frontages. Developments in the area predominantly range from five to seven stories, but there are some buildings that are taller, including the 17-story New York City Housing Authority (“NYCHA”) building on West 117th Street, across the street from the development site. Along Frederick Douglass Boulevard are taller and bulkier buildings, most of which reach a height of 120 feet. Many of the buildings along Frederick Douglass Boulevard have been built in the last ten years, pursuant to the 2003 Frederick Douglass Boulevard

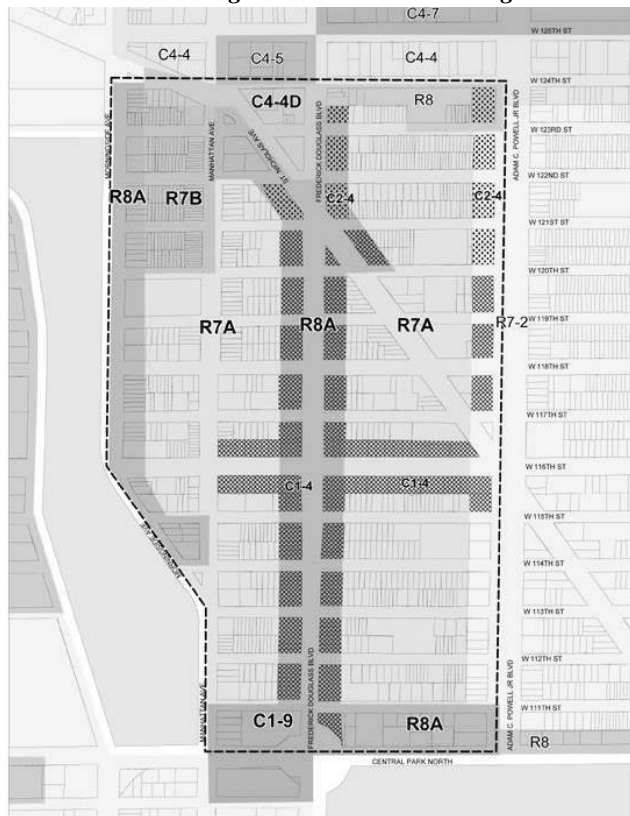
¹ 117th Street Equities, LLC is a subsidiary of Artimus Construction, which is managed by Ken Haron, President, and Eytan Benyamin, Chairman and Chief Executive Officer.

Rezoning. Saint Nicholas Avenue and Adam Clayton Powell Jr. Boulevard to the east of the rezoning area are characterized by five to seven story apartment buildings, most of which are over 100 years old.

There are a significant number of historic buildings in the vicinity of the project area. The project sits half a block west of the proposed Mount Morris Park Historic District Expansion, which has been proposed by Community Board 10 and the Mount Morris Park Community Improvement Association and is currently being evaluated by the Landmarks Preservation Commission. Across Adam Clayton Powell Jr. Boulevard to the southeast of the rezoning area is the Graham Court Building, which was constructed in 1899. The area to the south of West 116th Street along Adam Clayton Powell Jr. Boulevard and St. Nicholas Avenue is also listed by Community Board 10 as a priority preservation area in their Comprehensive Historic Preservation Plan.² This area is also characterized by five to seven story apartment buildings and contains the New York City Landmark Wadleigh High School for Girls.

The neighborhood is well served by public transportation, including the B and C subway lines on Frederick Douglass Boulevard and the 2 and 3 subway lines on Malcolm X Boulevard. All of these train lines stop at West 110th, West 116th, and West 125th Streets. The area is particularly well served by bus lines, with the M2, M3, M7, M10, M102, and the M116 all stopping nearby.

2003 Frederick Douglass Boulevard Rezoning



The Department of City Planning

Area Zoning

The proposed rezoning area was previously subject to the 2003 Frederick Douglass Boulevard Rezoning, which rezoned 44 blocks from Central Park North to West 124th Street, on either side of Frederick Douglass Boulevard. The 2003 rezoning's goals were to foster new residential development, promote contextual building forms, and promote new ground-floor retail. The rezoning, generally, set an R8A district to a depth of 100 feet along both sides of Frederick Douglass Boulevard, with an R7A district over the remainder of the blocks to the east. R7A districts permit a maximum residential floor area ratio ("FAR") of 4.0. Buildings are required a street wall of 40 to 65 feet, above which a setback of 10 feet on a wide street and 15 feet on a narrow street is required before rising to a maximum height of 80 feet.

² The Community Board 10 Comprehensive Preservation Plan was approved unanimously by the Board on May 2, 2012. The report is available on the Board website.

Existing Conditions in the Rezoning Area

The proposed rezoning area contains multi-family residential and institutional buildings ranging from two to seven stories. Along 117th Street at Frederick Douglass Boulevard is the mixed-use Cornerstone development, built in 2003 on a former City-owned site. The development contains approximately 150 units of housing and ground-floor retail. Also on 117th Street is the Fitzgerald condominium, built in 1892, which is larger than permitted by the R7A zoning, at 6.5 FAR and a base height of 75 feet. At the corner of West 117th Street and St. Nicholas Avenue is a small residential building, owned by the applicant. Along St. Nicholas Avenue north of this building is a 2,441 square foot City-owned lot that is managed by the Department of Parks and Recreation as a community garden, the Carrie McCracken TRUCE Community Garden. On the north side of the block are three five-story residential buildings, one of which fronts on Frederick Douglass Boulevard. Additionally, directly west of the development site is a two-story City-owned building occupied by a health facility. The building sits on a 12,523 square foot lot and is built to an FAR of 1.68.

Proposed Development Site

The applicant owns three contiguous tax lots (Block 1923, Lots 14, 49, and 52) on the eastern edge of the rezoning area, with frontages on West 117th and 118th Streets and St. Nicholas Avenue. The site has a total area of 28,636 square feet and an existing built FAR of 1.96. Lot 14 is a through lot with frontages on West 117th and 118th Streets. The lot contains the former St. Thomas the Apostle church, a Neo-Gothic building designed by Thomas Poole and completed in 1907. The Archdiocese of New York closed the church in 2003 citing dwindling attendance and the need for five million dollars' worth of repairs. At the time, all religious artifacts, including the stained glass windows, were removed. Following a community-driven preservation effort, the church was saved from demolition and purchased by the applicant. Artimus has begun work on bringing the building up to code and restoring the terra cotta façade. The original Church Building extended most of the way to West 117th Street, and the applicant has removed the rear portion of the church such that the building now covers approximately one third of the through lot.

To the west of the Church Building lot is Lot 52, a 2,523 square foot lot that contains a vacant four-story brick building that was constructed around the same time as the church as a rectory. To the east of the Church Building is a lot (Lot 49) that contains a five-story brick building constructed as the School of Saint Thomas the Apostle ("School Building") and a surface parking lot at the northeast corner of the block. The School Building was vacant for a number of years but has recently been leased to a private school on a short-term basis.

Proposed Project

The R8A rezoning would facilitate a mixed-use development containing 151 dwelling units and 12,201 square feet of community facility use. The Church Building would be repurposed as a community-oriented arts space that would be available to local arts groups. On the West 117th Street side of the Church Building's tax lot, a new 12-story residential building would be constructed with approximately 75 apartments. According to Artimus, 20 percent of these will be

affordable with the remainder market-rate. Though the proposed building has not yet been designed, the proposed R8A zoning would allow a building to rise without a setback to a height of 80 feet, after which the building would set back 15 feet before rising to a maximum building height of 120 feet. The structure of the School Building is expected to be preserved, with a five story vertical enlargement, set back 10 feet from the street. Additionally, the building will be expanded to the north into what is now the surface parking lot. On the west side of the Church Building, Artimus plans to maintain the former rectory building as housing with four dwelling units. Required accessory parking for the proposed project would be provided below-grade, with access through a single curb-cut on West 117th Street.

Proposed Actions

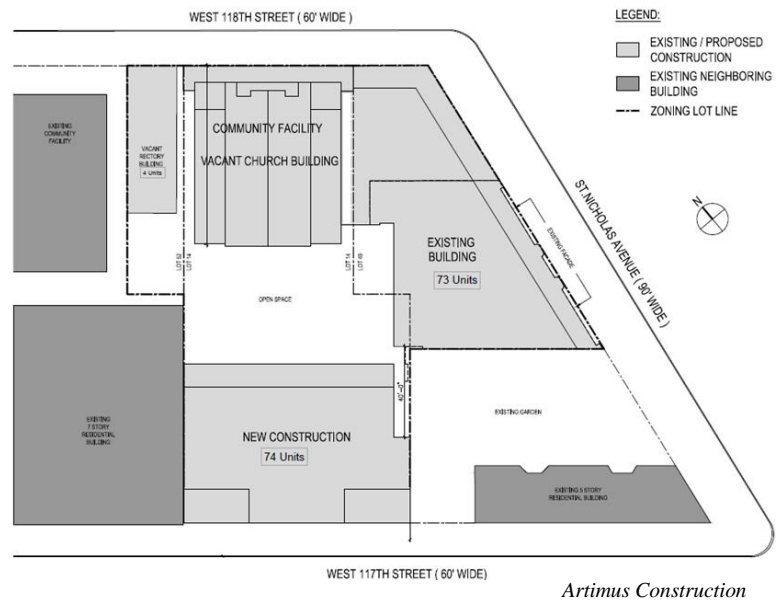
The applicant proposes an extension of the existing R8A zoning district mapped along the western portion of the zoning block to cover the entire block. The R8A district would allow an increase in the maximum FAR available for residential development from 4.0 to 6.02, and would allow taller buildings with streetwalls of up to 85 feet and maximum building heights of 120 feet. The R8A district also permits up to 70 percent lot coverage, versus 65 percent lot coverage under R7A district requirements, for interior and through lots. The community facility maximum FAR would also increase from 4.0 to 6.5. Because the proposed zoning district would cover the entire block, the City-owned, existing two-story health facility would also be affected.

According to the applicant, the height and setback requirements of the existing R7A district prevent utilization of all available floor area while also maintaining the Church Building as a community facility. At the allowed 4.0 FAR of an R7A district, the applicant could theoretically build almost 115,000 square feet of residential floor area. According to their calculation, however, the 80 foot height limit would only allow for approximately 81,448 square feet of that residential floor area to be constructed if the Church Building is maintained as a community facility.

COMMUNITY BOARD’S RECOMMENDATION

At a Full Board meeting on February 5, 2014, Manhattan Community Board 10 (“CB10”) voted on a resolution recommending approval of the proposed actions by a vote of 21 in favor, 8

Proposed Site Plan



opposed, and 2 abstaining. The approval recommendation was based on a letter dated January 20, 2014 from Artimus to the Board outlining certain agreements made.

The letter commits to the restoration of the Church Building so that it may be transformed into a community arts space. The space will include a flexible performance and gathering space in the main sanctuary, with multipurpose rehearsal and meeting spaces in the lower level of the building. Artimus further commits to continuing to work closely with CB10 and community arts groups to formulate an operational plan for the space. The letter stipulates that it is Artimus' intention that the space will primarily serve community arts and cultural groups, and will feature affordable rental rates for non-profit groups.

Regarding the community garden adjacent to the development site, Artimus also commits in the letter to continuing to work with the operators of the garden to ensure its continued existence. Artimus notes in the letter that Artimus met with representatives of the community garden in November 2012 and offered to install various improvements.

The Community Board 10 resolution of approval also speaks to a commitment by Artimus that 20% of the new construction housing units will be affordable at 60% of AMI, in compliance with the requirements for receiving tax-exempt bond financing.

BOROUGH PRESIDENT'S COMMENTS

The Church of St. Thomas the Apostle is a stunning architectural work that should be preserved as a community resource. Artimus' purchase of the church building to ensure its preservation and the developer's proposal to transform the space into a community facility is commendable. The applicant claims that the preservation of this historic building is possible only through a zoning district amendment that will allow larger buildings on the along West 117th Street and St. Nicholas Avenue. The existing R7A designation on the site, enacted only 11 years ago as part of a comprehensive rezoning of the Frederick Douglass Boulevard corridor, is by no means out of date; therefore, an evaluation of the proposed rezoning must focus not just on the merits of preservation but on the appropriateness of a denser, taller zoning district. This new zoning district will additionally grant new development rights to what could become a significant City-owned development site and will set the context for future developments in the area.

The development site is located in a transition area in terms of height and density. To the south, West 116th Street is an important commercial corridor, and to the west, Frederick Douglass Boulevard features buildings in keeping with the proposed zoning district. The 17-story NYCHA building across the street from the proposed development is also significantly taller than allowed by its R7A zoning. To the north and east of the project, however, is an area that is uniformly in keeping with the context of the R7A district and includes a number of important historic resources that are all of a similar building form—these areas feature five- to seven-story apartment buildings along the avenues with row houses along the midblocks. If approval is to be granted to permit a higher height zoning district, Artimus should take great care in designing buildings that are respectful to the context of both areas of development, to south and west as well as to the north and east.

The proposed rezoning will allow buildings that are essentially five stories taller than their immediate neighbors. Considering the layout of this particular site, with an open lot and a low-scale building at the corner of West 117th Street and St. Nicholas, this additional height will be more readily visible, as the side facades of the buildings will be open to the street. If the R8A zoning is approved, Artimus should work to ensure that these side facades are given contextual treatments to mitigate this additional height and bulk. Buildings should be designed such that floors above the streetwall height set back not just from the street line but from these side façades as well, which will help hide the bulk of the additional height.

In addition to the proposed development, the proposal will create what is potentially a lucrative development site on the City-owned lot to the west of the project site. The site is significantly underbuilt under the current zoning and will become more so following an upzoning. If this zoning change is approved, the City should look into appropriate uses for this site that could include a mixed-use project retaining the existing health facility, with a significant number of affordable apartments above.

Though the applicant has committed to retaining the Church Building, the action under review does not ensure this outcome. These types of community-oriented arts spaces can be difficult to manage and all efforts should be made, as soon as possible, to put together sustainable operational plans to ensure long-term success. In order to maintain diverse community involvement, the space should be managed by a nonprofit organization located on site, which will help to ensure affordable rates for community groups using the space. In addition to their commitment to provide affordable rates to users of the space, Artimus must work to ensure that an affordable rate is set for the *manager* of the space as well. This, again, will help ensure long-term success and will alleviate for a nonprofit organization the burden of paying the high property taxes of a building owned by a for-profit organization. High rents charged to nonprofit operators have caused similar cultural facilities to fail in the past. To prevent this potential issue, Artimus should consider whether deeding the building to the non-profit manager or the City would be an appropriate measure. The New York City Department of Cultural Affairs has significant experience managing similar community arts spaces and will be a great resource to Artimus as they and the community work to set this space up.

Conclusions

The proposed rezoning from an R7A district to an R8A district is an appropriate zoning map amendment. This action will facilitate the preservation of a treasured architectural resource for community use, the rehabilitation and expansion of existing contextual buildings for residential use, and the construction of a new residential building of which 20 percent of the units will be affordable. The proposed development's uses are appropriate for the neighborhood; the design of the new building will need to be contextually appropriate as well. The Borough President supports the proposal on the basis of the commitment letter received on March 27, 2014 agreeing to a commitment on contextual design and to the reiteration of commitments in regard to the community arts space.

BOROUGH PRESIDENT'S RECOMMENDATION

Therefore, the Manhattan Borough President recommends approval with conditions of ULURP Application No. C 140070 ZMM provided that the applicant:

1. pursuant to the commitment letter sent to Community Board 10 on January 20, 2014, works to formulate an operational plan with the community and Department of Cultural Affairs to ensure that the community facility space is dedicated to serve community arts and cultural groups and will feature affordable rental rates for non-profit groups;
2. pursuant to the commitment letter sent to the Borough President on March 27, 2014, the agreed upon contextual design changes are incorporated into the final design of the building; and
3. the former Church of St. Thomas the Apostle building is preserved to the highest standard and will remain on the site in perpetuity as a community facility space subject to the operational plan set forth by the applicant and community at a later date.



Gale A. Brewer
Manhattan Borough President