CITY PLANNING COMMISSION

October 19, 2016/Calendar No. 9 C 160340 HAM

IN THE MATTER OF an application submitted by the Department of Housing Preservation and Development (HPD)

1) pursuant to Article 160 of the General Municipal Law of New York State for:

    a) The designation of property located at 1461 Park Avenue (Block 1635, Lot 1) as an Urban Development Action Area; and

    b) Urban Development Action Area Project for such area; and

2) pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer to be selected by HPD;

to facilitate an affordable housing development containing approximately 390 dwelling units, approximately 3,201 square feet of commercial space and approximately 38,053 square feet of community facility space, in Borough of Manhattan, Community District 11.

Approval of the three separate matters is required:

1. The designation of property located at 1461 Park Avenue (Block 1635, Lot 1) as an Urban Development Action Area; and

2. An Urban Development Action Area Project for such area; and

3. The disposition of such property to a developer selected by the Department of Housing Preservation and Development (HPD).

The application for the Urban Development Action Area designation and project approval and disposition of City-owned property (C 160340 HAM) was submitted by the NYC Department of Housing Preservation and Development (HPD) on May 13, 2016. The proposed action, in conjunction with several related actions, will facilitate the development of Lexington Gardens II, a mixed-use development providing approximately 390 affordable dwelling units, approximately 3,201 square feet of commercial space and approximately 38,053 square feet of community facility space in the East Harlem neighborhood of Community District 11, Borough of Manhattan.

RELATED ACTIONS

In addition to this application for the designation and approval of the subject property as an Urban Development Action Area Project (UDAAP) and the disposition of City-owned property (C 160340 HAM), which is the subject of this report, implementation of the proposed development also requires action by the City Planning Commission on the following applications, which are being considered concurrently with this application:

C 160336 ZMM	Amendment to the Zoning Map, Section 6b, to change existing C8-4, R7-2 and R7-2/C1-5 Districts to an R9/C2-4 District.
C 160338 ZSM	Special Permit, pursuant to ZR Section 74-743(a)(2), to allow, within a Large Scale General Development, the location of a building without regard for applicable height and setback and street wall location regulations.
C 160339 ZSM	Special Permit, pursuant to ZR Section 74-543, to allow, within a Large Scale General Development in the transit zone seeking a bulk modification, a waiver of required accessory residential off-street parking spaces for a new building and previously required spaces for an existing building on the zoning lot.
N 160337 ZRM	Zoning Text Amendment to a designate Mandatory Inclusionary Housing Area.

BACKGROUND

The NYC Department of Housing Preservation and Development (HPD) requests approval of an Urban Development Action Area Project (UDAAP) and disposition of property to facilitate the construction of Lexington Gardens II, a mixed-use development in the East Harlem neighborhood of Community District 11, Manhattan.

The Department of Housing Preservation and Development states in its application that:

> The City owned Development Site is proposed for disposition to a developer to be selected by HPD. The Development Site consists of underutilized vacant properties,

> which tend to impair or arrest the sound development of the surrounding community, with or without tangible blight. Incentives are needed in order to induce the correction of theses substandard, insanitary, and blighting conditions. The project activities would protect and promote health and safety and would promote sound growth and development. Therefore, the Development Site is eligible to be an Urban Development Action Area, and the proposed project is eligible to be an Urban Development Action Area Project, pursuant to Article 16 of the General Municipal Law.

Lexington Gardens II will be adjacent to Lexington Gardens I, a mixed use development built in 1985 comprising 108 residential units and community facility uses along Lexington Avenue. Following a commitment made by the developer to Community Board 11, Lexington Gardens Associates refinanced Lexington Gardens I to provide long term affordability to the existing development; extending the HUD regulatory agreement for affordability from 2025 to 2050.

The development site is L-shaped and comprises three Lots on Block 1635: 1, 7, and 16. The proposed development will provide approximately 390 affordable residential units for a mix of incomes up to 130% of the Area Median Income (AMI). Approximately 80 percent of the units in the proposed building would be affordable for households at or below 80% of the AMI (approximately $69,000). The proposed development will also provide approximately 3,201 square feet of commercial space that will be located along Lexington Avenue and approximately 38,053 square feet of community facility space along East 108th Street and Park Avenue.

The community facility spaces within Lexington Gardens II will be occupied by the Northside Early Childhood Development Center, which will occupy the larger community facility space located along Park Avenue, and by Union Settlement Association in the smaller space along East 108th Street. Northside Early Childhood Development Center provides an educational curriculum that focuses on outcome-driven behavioral, mental health and educational services for children and families; and Union Settlement is a multi-service organization that has been operating in East Harlem since 1895 and provides an array of services ranging from education to youth development. The courtyards formed by the existing Lexington Gardens I development and this proposed development will provide tenants of both properties landscaped active and passive recreational space.

Currently, Lot 16 is used to provide 25 off-street parking spaces accessory to Lexington Gardens I. Lots 1 and 7 are used to provide 88 off-street parking spaces: 58 spaces are used by HPD for the use of City of New York vehicles, and 30 spaces are used by the New York City Police Department (NYPD). NYPD anticipates reestablishing some of their vehicle parking within the new Lexington Gardens II development by means of a future site selection application.

The proposed building will have approximately 163 feet of frontage along East 107th Street, 201 feet of frontage along Park Avenue between East 107th and East 108th streets, 405 feet along East 108th Street between Park Avenue and Lexington Avenue and approximately 56 feet along Lexington Avenue between East 107th and East 108th streets.

To facilitate the proposed development, HPD is seeking a UDAAP, project approval and disposition of one City-owned property (Block 1635, Lot 1). The proposed development site would be developed on three Lots (1, 7, and 16) on Block 1635. Lots 7 and 16 are privately owned and were previously conveyed to the owner by the City in 1984.

Several related actions are required to facilitate the proposed development, including a zoning map amendment, a special permit for bulk waivers pursuant to ZR Section 74-743(a)(2), a special permit for parking waivers pursuant to ZR Section 74-532, and a zoning text amendment to designate the proposed rezoning area as a Mandatory Inclusionary Housing Area.

Zoning Map Amendment (C 160336 ZMM)

The area subject to the proposed rezoning (project area) is a full City block (Block 1635, Lots 1, 7, 16 and 17) generally bounded by Park Avenue to the west, Lexington Avenue to the east, East 107th Street to the south and East 118th Street to the north. The project area is adjacent to the Park Avenue Viaduct and two blocks south of the Lexington Avenue subway stop at East 110th Street and Lexington Avenue. The project area is approximately 81,745 square feet and is currently occupied by Lexington Gardens I (Block 1635, Lot 17) at the intersection of Lexington Avenue and East 107th Street.

The blocks surrounding the project area are predominantly residential with commercial uses along Lexington Avenue. Lexington Avenue is characterized by five-story mixed use residential buildings with ground floor retail. However, to the north and west of the project area are New York City Housing Authority (NYCHA) developments with tower-in-the park building typologies and building heights ranging between 18 and20 stories. Although Park Avenue is a wide street, the MTA MetroNorth railroad viaduct bisects the thoroughfare. As a result, current pedestrian activity there is limited and the street is mainly used to access the NYCHA developments on both sides of Park Avenue.

The majority of the project area is currently zoned R7-2 with a C1-5 overlay along Lexington Avenue, and a portion of Lot 1 is zoned C8-4. To facilitate the development of residential and community facility uses on Block 1635, the proposed zoning map amendment would establish an R9 district with a C2-4 commercial overlay over the entire project area.

In the portion of the project currently zoned R7-2, the maximum allowable residential FAR is 3.44 and the maximum community facility FAR is 6.5. Commercial overlays mapped in these districts have a maximum commercial FAR of 2.0. Building heights and setbacks are controlled by a sky exposure plane, which begins 60 feet above the street line. In R7 districts, the Quality Housing regulations are optional; under the terms of these regulations, the maximum permitted residential FAR is 4.0. Quality Housing regulations mandate a maximum base height of 65 feet before setback (10 feet along a wide street and 15 feet along a narrow street) and a maximum building height of 80 feet. The existing C1-5 district allows local shopping that serves the immediate surrounding residences (Use Group 6) and allows a maximum permitted commercial FAR of 2.0. C1-5 commercial overlays do not require parking.

The current C8-4 zoning district has a maximum commercial FAR of 5.0 and a maximum community facility FAR of 6.5; residential uses are not permitted. C8 districts provide for automotive and other heavy commercial uses such as repair shops, warehouses, gas stations and car washes.

In R9 districts, the maximum allowable residential FAR within MIH areas is 8.0. Community facility uses in R9 districts have a maximum allowable FAR of 10 and commercial overlays mapped in these districts have a maximum allowable FAR of 2.0. Buildings with a qualifying ground floor developed pursuant to the Quality Housing regulations and mapped within a MIH area have a maximum base height of 125 feet and maximum building height of 175 feet within 100 feet of a wide street. Buildings located on narrow streets have a slightly lower maximum height of 165 feet after a 15 foot setback at 125 feet. The proposed C2 overlay has the same maximum commercial FAR as the existing commercial overlay but meets a broader shopping and service need than daily activities (Use Group 6-9). The C2-4 overlay would also allow the development to maintain the public parking for NYPD.

Special Permit pursuant to ZR Section 74-743(a)(2), to allow, within a Large Scale General Development, the location of a building without regard for applicable height and setback and street wall location regulations (C 160338 ZSM)

In R9 districts, buildings developed pursuant to the Quality Housing regulations in MIH areas are allowed a maximum building height of 175 feet with a qualifying ground floor on a wide street. The maximum base height before a required 10 foot setback is 125 feet. For buildings developed on a narrow street, the maximum building height is 165 feet with a qualifying ground floor and a required 15 foot setback after the maximum base height. Section 35-651 of the Zoning Resolution also requires street walls in C2 districts to extend up to at least the minimum base height along the entire streetline when located within 50 feet of a wide street.

The proposed building does not comply with the applicable height and setback and street wall location requirements, either along Park and Lexington Avenues, which are both wide streets, or along East 107th and 108th Streets, which are both narrow streets. The proposed development varies in height at different sections of the building, ranging from 97’-4” to 172’-0” feet to the top of the roof. The proposed 182’-8” maximum building height includes bulkheads which are set back from the street.

The proposed waivers will facilitate the stepped module design of the proposed development. This design offers a contextual juxtaposition with the tower-in-the-park NYCHA developments north and west of the project area, resulting in a more efficient massing and maximum utilization of residential floor area. The requested waivers will allow for the shifting of building bulk toward Park Avenue, a wide street, without sacrificing efficiency and will facilitate a taller building than permitted under the otherwise applicable Quality Housing regulations. These modifications will minimize the proposed building's impact on the light and air of the surrounding blocks by stepping down along Lexington Avenue and East 107th and 108th streets.

If the proposed development complied with the otherwise applicable street wall requirements, the new building would have a single 400' long street wall along East 108th Street without any articulation. The requested waiver will allow for minor variations in the distance that each building module sets back from the street line, providing open cavities for landscaped spaces. This design will break up a long, monotonous wall and provide a sense of vibrancy and movement to the pedestrian realm.

Taken together, these modifications will facilitate a site plan and project design that would address the relationship among the existing and proposed buildings, the open space, the adjacent streets and surrounding developments.

Special Permit pursuant to ZR Section 74-532, to allow, within a Large Scale General Development in the transit zone seeking a bulk modification, a waiver of required accessory residential off-street parking (C 160339 ZSM)

In R9 residential districts, pursuant to ZR Section 25-23, the required number of off-street accessory spaces is 40% of the total residential units. But zoning regulations relax this requirement for residential developments within the transit zone.

The proposed development would provide approximately 390 residential units. 195 of those units will be "Income Restricted Housing Units" for which no parking is required under the Zoning Resolution. The remaining 195 residential units would trigger 78 parking spaces; factoring in the

25 spaces required for residents of Lexington Gardens I brings a total for both developments to 103 required parking spaces.

The applicant is seeking to waive the 78 required accessory spaces. As required by a regulatory agreement with the U.S. Department of Housing and Urban Development, the applicant would as part of the proposed development provide the 25 accessory parking spaces for the residents of Lexington Gardens I and 32 additional public parking spaces for the future use of the NYPD.

Zoning Text Amendment (N 160337 ZRM)

The applicant proposes a Zoning Text Amendment to designate the project area as a Mandatory Inclusionary Housing Area. The applicant has requested to incorporate Option 2, which requires that at least 30 percent of the residential floor area shall be provided as housing affordable to households at an average of 80 percent AMI.

ENVIRONMENTAL REVIEW

This application (C 160340 HAM), in conjunction with the related actions (C 160336 ZMM, N 160337 ZRX, C 160338 ZSM, C 160339 ZSM), was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 16HPD082M. The Lead Agency is the Department of Housing Preservation and Development.

After a study of the potential environmental impact on the proposed action, a Negative Declaration was issued on June 1, 2016. On June 2, 2016, a Revised Environmental Assessment Statement (EAS) was issued to clarify that a site selection and acquisition of a parking garage facility by the Department of Citywide Administrative Services (DCAS) to be used by the New York City Police Department (NYPD), with terms to be determined, would occur subsequent to the approval of the proposed actions. The Revised EAS concluded that change in the proposed actions would not result in any new or different significant adverse environmental impacts not already identified in the previous Negative Declaration. A Revised Negative Declaration was issued on June 2, 2016. The

Revised Negative Declaration reflects the changes to the proposed actions and supersedes the Negative Declaration issued on June 1, 2016.

A Technical Memorandum (001) was issued on October 11, 2016, in connection with the proposed actions, to address changes to the development program for the proposed project, and to update the Community Facilities and Services analysis to reflect new school enrollment projection data that was released during the public review period. The Technical Memorandum describes and analyzes a proposed development that includes 400 dwelling units, a net incremental increase of 6,218 gross square feet (gsf) of residential space (10 dwelling units); a net increase of 531 gsf of community facility space; a net increase 745 gsf of parking space; and a net decrease of 71 gsf of commercial space, compared to the proposed development previously analyzed in the June 2016 Revised EAS and Revised Negative Declaration. The Technical Memorandum concludes that the changes in the proposed development program and the updated Community Facilities analysis would not result in any new significant adverse impacts.

UNIFORM LAND USE REVIEW

This application (C 160340 HAM), in conjunction with the related actions (C 160336 ZMM, C 160338 ZSM, and C 160339 ZSM), was certified as complete by the Department of City Planning on June 6, 2016, and was duly referred to Community Board 11 and the Manhattan Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b) along with the related application for a zoning text amendment, (N 160337 ZRM) which was referred for information and review in accordance with the procedures for non-ULURP matters.

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Community Board Public Hearing

Community Board 11 held a public hearing on the application (C 160340 HAM) on July 19, 2016 and on that date, by a vote of 20 in favor, 13 in opposition, and 5 abstentions, adopted a resolution recommending approval of the application.

Borough President Recommendation

This application (C 160340 HAM) was considered by the Bronx Borough President, who issued a recommendation approving the application on September 16, 2016 with the following conditions: HPD and the City should:

1. Create an enduring oversight mechanism to review and evaluate the management of the Lexington Gardens and Lexington Gardens II developments with requirements that the acting management company presents to the appropriate committee of Community Board 11, the Manhattan Borough President, and the local City Councilmember; and

2. Study how to enact "practical permanence" by using restrictive covenants on the deed to compel property owners to extend the duration of affordability and regulatory requirements.

City Planning Commission Public Hearing

On September 7, 2016 (Calendar No. 7), the City Planning Commission scheduled September 21, 2016 for a public hearing on this application (C 160340 HAM) and related actions. The hearing was duly held on September 21, 2016 (Calendar No. 29) in conjunction with the application for the related actions. There were seven speakers in favor of the application and one in opposition.

Seven members of the applicant team spoke in favor of the project. The team included representatives from HPD, the developer Tahl-Propp and their partners L&M Development, the architecture team, and a representative from Northside Early Childhood Development Center. The team provided a history of the site, including Lexington Gardens I, and an overview of the proposed development. HPD discussed the project financing and the proposed level of affordability. The architect talked about the building's design and the height and setback waivers that would be necessary to facilitate the development. The Tahl-Propp representative briefly addressed some concerns raised during the public review process regarding their track record in the community. The developer highlighted the challenges of managing aging housing infrastructure and stated that the company is committed to providing affordable housing opportunities and improving the management of the buildings in their portfolio. A representative from Northside Early Childhood Development Center talked about the structure of their lease for the community facility space and how it will allow them to expand their operations and services to the East Harlem community.

A representative from the Manhattan Borough President's Office reiterated the conditions raised in the Borough President's recommendations, including the creation of an oversight committee to monitor and evaluate the management of both the proposed and existing Lexington Gardens developments and a study to analyze ways in which "practical permanence" could be enacted to ensure a longer period of affordability.

A representative from EL Barrio Unite, a local advocacy group in East Harlem, spoke in opposition to the proposed project. The speaker expressed his concerns about the level of transparency in the Community Board's review of these types of projects and the level of affordability. The speaker said that, given the number of board members that were not in favor, there should have been additional meetings to consider this project and more oversight of the voting process. The speaker also suggested that the project is not affordable for households earning less than $29,000 and that his group would have preferred delaying the review of the project until the project was more aligned with the level of affordability proposed in the East Harlem Neighborhood Plan.

Community Board 11's Chair spoke in favor of the project and discussed the reasons behind the way the board voted. The Chair stated the proposed project embodies the principles and objectives that board has long advocated for and that are included in the East Harlem Neighborhood Plan. She acknowledged that the project is not perfect but stated that it achieves many of the goals advocated by the board such as affordable housing, local hiring and additional community facility spaces for local organizations. The Chair also said that the project would enliven an underutilized Park Avenue corridor and would help narrow the income gap by providing local construction jobs.

There were no other speakers, and the hearing was closed.

CONSIDERATION

The Commission believes that this application (C 160340 HAM), in conjunction with the related actions (C 160336 ZMM, N 160337 ZRM, C 160338 ZSM, and C 160339 ZSM), is appropriate.

The proposed Urban Development Action Area designation, project approval and disposition of City-owned property will facilitate the proposed development on an underutilized property and provide necessary affordable housing, community facilities and commercial uses. The

Commission believes that this project will promote sound growth and development on unbuilt, City-owned property that is located in close proximity to mass transit, public services and retail allowing convenient access by building residents.

The proposed project will provide approximately 390 affordable apartment units, which would have rents set at affordability levels ranging from 40 to 165 percent of the AMI, with approximately 50 percent of units for families designated for levels of affordability below 80 percent of the AMI. The Commission believes this will help to meet the significant affordable housing needs in Manhattan and Community Board 11.

The proposed project would increase community facility opportunities and provide significant services to the children and residents of East Harlem. The ground floor retail along Lexington Avenue proposed as part of this development will provide commercial continuity and serve as a link leading up to the East 116th Street commercial corridor.

The related application for a zoning map amendment (C 160336 ZMM) to facilitate the development of a mixed-use affordable housing project on underutilized City-owned property in close proximity to mass transit, public services and retail is consistent with the development patterns found in the surrounding area. The Commission believes the proposed project would enliven an underutilized street with active ground floor uses and that the R9 zoning regulations allow a building scale compatible with the scale of other existing nearby developments.

The proposed zoning text amendment (N 160337 ZRM) is appropriate. Designating the project area as a Mandatory Inclusionary Housing Area will ensure permanent affordability for a portion of the units on the site. Option 2 requires that at least 30 percent of the residential floor area shall be provided at an average of 80 percent AMI. HPD, in response to Commission questions regarding affordability and targeted AMIs, provided a letter, dated October 12, 2016, showing the proposed targeted AMIs by unit size.

The request for a special permit for bulk waivers pursuant to ZR Section 74-743(a)(2) (C 160338 ZSM) is appropriate. The waivers will facilitate the creation of a site plan and project design that are uniquely suited for the L-shaped development site while providing ample open space,

contributing to a lively streetscape and maintaining a pedestrian scale. The proposed distribution of floor area and location of buildings will not obstruct access to light and air to the detriment of the public realm.

The request for parking waivers pursuant to ZR Section 74-532 (C 160339 ZSM) is appropriate. The Commission believes the reduction in the number of required accessory spaces will facilitate the creation of affordable housing by reducing the costs associated with providing the amount of parking that would otherwise be required.

The Commission acknowledges the letter received by El Barrio Unite regarding Community Board 11's vote and the proposed project's affordability level. The Commission notes that the applicant team has committed to working with Community Board 11 to ensure that the project provides affordable units for households at as low as 47 percent of the AMI. The Commission also acknowledges the concerns raised in the Manhattan Borough President's recommendation for an oversight mechanism to review and evaluate the management of the proposed project as well as Lexington Gardens I. In a letter dated October 12, HPD stated that the agency would work to "strengthen its strategies and implement proactive initiatives to ensure that owners and managers maintain safe physical structures that benefit renters, owners and the community at large."

RESOLUTION

RESOLVED, that the City Planning Commission finds that the action described herein will have no significant impact on the environment; and

WHEREAS, the Department of Housing Preservation and Development has recommended the designation of property located at 1461 Park Avenue (Block 1635, Lot 1) in Community District 11, Borough of the Manhattan, as an Urban Development Action Area; and

WHEREAS, the Department of Housing Preservation and Development has also recommended the approval of an Urban Development Action Area Project for such area;

THEREFORE, be it further **RESOLVED**, that the City Planning Commission, after due consideration of the appropriateness of the actions, certifies its unqualified approval of the following matters pursuant to the Urban Development Action Area Act:

a) The designation of property located at 1461 Park Avenue (Block 1635, Lot 1) as an Urban Development Action Area; and

b) An Urban Development Action Area Project for such area;

to facilitate development of a mixed-use buildings containing approximately 390 affordable dwelling units, commercial and community facility space, in Borough of the Manhattan, Community District 11; and

BE IT FURTHER RESOLVED, by the City Planning Commission, pursuant to Section 197-c of the New York City Charter, that based on the environmental determination and the consideration described in this report, the application of the Department of Housing Preservation and Development, for the disposition of City-owned property located at 1461 Park Avenue (Block 1635, Lot 1) in Community District 11, Borough of Manhattan, to a developer to be selected by the Department of Housing Preservation and Development, is approved (C 160340 HAM).

The above resolution (C 160340 HAM), duly adopted by the City Planning Commission on October 19, 2016 (Calendar No. 9), is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

CARL WEISBROD, Chairman
KENNETH J. KNUCKLES, ESQ., Vice Chairman
RAYANN BESSER, ALFRED C. CERULLO, III,
MICHELLE DE LA UZ, JOSEPH DOUEK, RICHARD W. EADDY,
HOPE KNIGHT, ANNA HAYES LEVIN,
ORLANDO MARÍN, LARISA ORTIZ, Commissioners

CHERYL COHEN EFFRON, Commissioner Recused

Community/Borough Board Recommendation

Pursuant to the **U**niform **L**and **U**se **R**eview **P**rocedure

Application #: **C 160336 ZMM**	Project Name: **Lexington Gardens II**
CEQR Number: 16HPD082M	Borough(s): Manhattan Community District Number(s): 11

Please use the above application number on all correspondence concerning this application

SUBMISSION INSTRUCTIONS

1. Complete this form and return to the Department of City Planning by one of the following options:
   - **EMAIL (recommended):** Send email to CalendarOffice@planning.nyc.gov and include the following subject line: (CB or BP) Recommendation + (6-digit application number), e.g., "CB Recommendation #C100000ZSQ"
   - **MAIL:** Calendar Information Office, City Planning Commission, 120 Broadway, 31st Floor, New York, NY 10271
   - **FAX**: to (212) 720-3488 and note "Attention of the Calendar Office"
2. Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:

IN THE MATTER OF an application submitted by Lexington Gardens Owners LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 3b:

1. eliminating from within an existing R7-2 District a C1-5 District bounded by a line 100 feet westerly of Lexington Avenue, East 108th Street, Lexington Avenue, and East 107th Street;

2. changing from an R7-2 District to an R9 District property bounded by a line 100 feet easterly of Park Avenue, East 108th Street, Lexington Avenue, and East 107th Street;

3. changing from a C8-4 District to an R9 District property bounded by the easterly boundary line of the New York Central Railroad Right-of-Way, East 108th Street, a line 100 feet easterly of Park Avenue, and East 107th Street; and

4. establishing within the proposed R9 District a C2-4 District bounded by the easterly boundary line of the New York Central Railroad Right-of-Way, East 108th Street, Lexington Avenue, and East 107th Street;

Borough of Manhattan, Community District 11, as shown on a diagram (for illustrative purposes only) dated June 6, 2016

Applicant(s):	Applicant's Representative:
Lexington Gardens Owners LLC c/o L&M Development Partners Inc. 419 Park Avenue South, 18th Floor New York, NY 10016	Veanda Simmons NYC Department of Housing Preservation & Development 100 Gold Street, NY 10038

Recommendation submitted by:

Manhattan Community Board 11

Date of public hearing: July 19, 2016 **Location:** Dream Charter School, 1991 Second Avenue, NY NY

Was a quorum present? **YES** ☒ **NO** ☐ *A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.*

Date of Vote: July 19, 2016 **Location:** Dream Charter School, 1991 Second Avenue, NY NY

RECOMMENDATION

☒ Approve ☐ Approve With Modifications/Conditions

☐ Disapprove ☐ Disapprove With Modifications/Conditions

Please attach any further explanation of the recommendation on additional sheets, as necessary.

Voting

 # In Favor: 20 **# Against:** 13 **# Abstaining:** 5 **Total members appointed to the board:** **48**

Name of CB/BB officer completing this form	*Title*	*Date*
Angel D. Mescain	District Manager	8/17/2016

Borough President Recommendation

City Planning Commission

22 Reade Street, New York, NY 10007
Fax # (212) 720-3356

INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E 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 160336 ZMM, N 160337 ZRM, C 160338 ZSM, C 160339 ZSM, C 160340 HAM

Docket Description:

C 160336 ZMM

IN THE MATTER OF the application submitted by Lexington Gardens Owners LLC for an amendment of the Zoning Map, Section No. 3b:

1. eliminating from within an existing R7-2 District a C1-5 District bounded by a line 100 feet westerly of Lexington Avenue, East 108th Street, Lexington Avenue, and East 107th Street;
2. changing from an R7-2 District to an R9 District property bounded by a line 100 feet easterly of Park Avenue, East 108th Street, Lexington Avenue, and East 107th Street;
3. changing from a C8-4 District to an R9 District property bounded by the easterly boundary line of the New York City Central Railroad Right-of-Way, East 108th Street, a line 100 feet easterly of Park Avenue, and East 107th Street; and
4. establishing within the proposed R9 District a C2-4 District bounded by the easterly boundary line of the New York City Central Railroad Right-of-Way, East 108th Street, Lexington Avenue, and East 107th Street.

(See Continued)

COMMUNITY BOARD NO: 11 BOROUGH: Manhattan

RECOMMENDATION

- [ ] APPROVE
- [x] 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

Paul A Brewer

BOROUGH PRESIDENT

September 16, 2016
DATE

C 160337 ZRM

IN THE MATTER OF the application submitted by Lexington Gardens Owners LLC, is seeking a zoning text amendment to Appendix F to apply the Mandatory Inclusionary Housing ("MIH") program to the Project Area. The Applicant is planning the Proposed Development with affordable housing that meets the Option 2 requirements. The Applicant requests that the City Planning Commission and City Council allow the Applicant to meet the MIH affordable housing requirement by complying with the Section 23-154(d)(3)(ii) requirements and providing no less that 30% of residential floor area to housing earning up to 80% of AMI.

C 160338 ZSM

IN THE MATTER OF an application submitted by Lexington Gardens Owners LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-743(a)(2) of the Zoning Resolution to modify the height and setback requirements of Section 23-66 (Height and Setback Requirements for Quality Housing Buildings) and Section 35-65 (Height and Setback Requirements of Quality Housing Buildings), and the Street wall location requirements of Section 35-651 (Street Wall Location), in connection with a proposed mixed-use development on property bounded by Park Avenue, East 108th Street, Lexington Avenue, and East 107th Street (Block 16 35, Lots 1, 7, 16 & 17), in an R9/C2-4* District, within a Large-scale General Development, Borough of Manhattan, Community District 11

*Note: The site is proposed to be rezoned by changing existing R7-2, R7-2/C1-5 & C8-4 Districts to an R9/C2-4 District under a concurrent application (160336 ZMM).

C 160339 ZSM

IN THE MATTER OF an application submitted by Lexington Gardens Owners LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-532 of the Zoning Resolution to waive 103 required off-street parking spaces including 25 required off-street parking spaces for an existing development on the zoning lot, in connection with a proposed mixed-use development on property bounded by Park Avenue, East 108th Street, Lexington Avenue, and East 107th Street (Block 1635, Lots 1, 7, 16, & 17), in an R9/C2-4* District, within the Transit Zone, in a Large-Scale General Development, Borough of Manhattan, Community District 11.

C 160340 HAM

IN THE MATTER OF an application submitted by the Department of Housing Preservation and Development (HPD)

1. pursuant to Article 160 of the General Municipal Law of New York State for;
    a. the designation of property located at 1461 Park Avenue (Block 1635, Lot 1) an Urban Development Action Area: and
    b. Urban Development Action Area Project for such area: and

2. pursuant to Section 197-c of the New York City Charter for the disposition of such a property to a developer to be selected by HPD:
    a. to facilitate an affordable housing development containing approximately 390 dwelling units, approximately 3,201 square feet of commercial space and approximately 38,053 square feet of community facility space in the Borough of Manhattan, Community District 11.

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Gale A. Brewer, Borough President

September 16, 2016

Recommendation on ULURP Application Nos. C 160336 ZMM, N 160337 ZRM, C 160338 ZSM, C 160339 ZSM, and C 160340 HAM - Lexington Gardens II
By New York City Department of Housing Preservation and Development

PROPOSED ACTIONS

The New York City Department of Housing Preservation and Development ("HPD" or "the Applicant") and its proposed development partner Lexington Gardens Owners LLC ("the Owner"), seek approval of multiple land use actions to facilitate the development of a mixed-use affordable housing project on the block bounded by Lexington Avenue, East 108th Street, Park Avenue, and East 107th Street (Block 1635, Lots 1, 7, 16, and 17) in the East Harlem neighborhood, Community Board 11 (CB 11) in the Borough of Manhattan.

The actions include a zoning map change to a high density residential district with a commercial overlay, a text amendment to apply the city's Mandatory Inclusionary Housing (MIH) program, a large-scale general development special permit for bulk modifications, a special permit to waive parking requirements, and the designation of city-owned property as an Urban Development Action Area (UDAA) and the approval of the project as an Urban Development Action Area Project (UDAAP).

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 for a Large-Scale General Development

For a large scale general development, the City Planning Commission ("Commission" or "CPC") may, pursuant to ZR § 74-743 (a)(2) modify or waive the location of buildings without regard for the applicable yard, court, distance between buildings or height and setback regulations. In order to grant a special permit pursuant to this Section for any large-scale general development, the Commission shall find, pursuant to ZR § 74-743 (b), that:

(1) the distribution of floor area, open space, dwelling units, rooming units, and the location of buildings, primary business entrances and show windows will result in a better site plan and a better relationship among buildings and open areas to adjacent streets, surrounding development, adjacent open areas and shorelines than would be possible without such distribution and will thus benefit both the occupants of the large-scale general development, the neighborhood and the City as a whole;

(2) the distribution of floor area and location of buildings will not unduly increase the bulk of buildings in any one block or unduly obstruct access of light and air to the detriment of the occupants or users of buildings in the block or nearby blocks or of people using the public streets; …
(4) considering the size of the proposed large-scale general development, the streets providing access to such large-scale general development will be adequate to handle traffic resulting therefrom; … and
(10) a declaration with regard to ownership requirements in paragraph (b) of the large-scale development definition in Section 12-10 has been filed with the Commission.[1]

Special Permit for the Waiver of Parking Requirements for accessory group parking facilities
The special permit pursuant to ZR § 74-532 requires the City Planning Commission, in conjunction with an application for a large-scale residential development or a large-scale general development in the transit zone seeking a bulk modification, to reduce or waive the number of required accessory residential off-street parking spaces, including any spaces previously required for an existing building on the zoning lot, provided that the Commission finds that:

(1) where the applicant is seeking reduction of parking spaces required by ZR §25-23 (Requirements Where Group Parking Facilities are Provided), such reduction will facilitate the creation or preservation of income-restricted housing units, in such large-scale residential development or large-scale general development. Such finding shall be made upon consultation with the Department of Housing Preservation and Development;
(2) the anticipated rates of automobile ownership of residents of such large-scale residential development or large-scale general development are minimal and that such reduction or waiver is warranted;
(3) such reduction of parking spaces will not have undue adverse impacts on the residents, businesses or community facilities in the surrounding area, including the availability of parking spaces for such uses; and
(4) such reduction of parking spaces will result in a better site plan.

In determining the amount of parking spaces to reduce or waive, the Commission may take into account current automobile ownership patterns for an existing building containing residents on the zoning lot, as applicable.

The Commission may prescribe additional conditions and safeguards to minimize adverse effects on the surrounding area.

Urban Development Action Area and Urban Development Action Area Project
City-owned properties that are no longer in use or are in deteriorated or deteriorating condition are eligible to be designated as UDAA and UDAAP, pursuant to the Urban Development Area Act (Article 16 of the State General Municipal Law). UDAA and UDAAP provide incentives for private entities to correct substandard, unsanitary and/or blighted conditions. According to New York State General Municipal Law § 694(4), to receive a UDAA and/or UDAAP designation the City Planning Commission and the City Council must find that:

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[1] Pursuant to ZR §74-743, special provisions for bulk modification, findings (a)(1), (b)(3), (b)(5), b(6), b(7), b(8) and b(9) are not applicable to this application.

(a) the present status of the area tends to impair or arrest the sound growth and development of the municipality;
(b) the financial aid in the form of tax incentives, if any, to be provided by the municipality pursuant to [the tax incentives provisions of the Urban Development Action Area Act]… is necessary to enable the project to be undertaken; and
(c) the area designation is consistent with the policy and purposes [of the Urban Development Action Area Act].

Section 197-c of the New York City Charter mandates that the disposition of all City-owned real property (other than the lease of office space) be subject to the Uniform Land Use Review Procedure ("ULURP"). While no specific findings must be met to make a property eligible for disposition under Section 197-c, Section 1802(6)(j) of the Charter limits HPD to the disposition of residential real property.

PROJECT DESCRIPTION

HPD and Lexington Gardens Owners seek to develop a building ranging in height from 8 to 15 stories and totaling 411,725 square feet in a Large-Scale General Development. The Development Site (Lots 1, 7, and 16) will contain approximately 370,470 square feet of residential floor area, 38,053 square feet of community facility floor area, 3,201 square feet of commercial floor area, and active and passive landscaped tenant recreation space. The proposed building will occupy three corners of the Development Site with 163 feet of frontage along 107th Street, 2-1 feet of frontage along Park Avenue between E 107th Street and E 108th Street, and 405 feet of frontage along Lexington Avenue. The development will be located on both private and public land, necessitating a disposition of city-owned land in order to make a cohesive development parcel. The project will produce approximately 390 affordable residential units, with the potential for more as the building is fully designed for construction.

Background

The Applicant for the project proposal is a partnership between Tahl-Propp Equities and L&M Developers Lexington Gardens Owners LLC. Both organizations are well known in East Harlem; L&M Developers have built a number of buildings in East Harlem and Tahl-Propp Equities owns a number of buildings in East Harlem and Greater Harlem.

In 1983, to facilitate the construction of Lexington Gardens, a Section 8 subsidized housing project, Lots 7, 16, and 17 were conveyed from HPD to Lexington Gardens Associates (LGA). Lexington Gardens was constructed on Lot 17 and consists of 108 residential units and a ground floor community facility in an 116,146 square foot building. Lot 16 was developed with 25 required off-street accessory parking spaces. Under the Land Disposition Agreement between the City and LGA, on-site affordable housing was required with a lifespan of 40 years from the issuance of the first Certificate of Occupancy, or until 2025. After the completion of Lots 16 and 17, LGA was acquired by Tahl-Propp Equities, LLC.

In June 2015, with a commitment made to CB 11, the developers refinanced Lexington Gardens to extend the affordability to 2050 by utilizing a 35-year FHA insured mortgage. In addition, the developers acquired a 20-year Housing Assistance Payment contract with HUD and received a

35-year Article XI tax exemption. To facilitate the refinancing of Lexington Gardens, the Project Area was combined into a single zoning lot. Beneficial ownership of this development is an entity affiliated with Tahl-Propp Equities.

East Harlem
The City of New York rezoned East Harlem from Lexington Avenue to the East River in 2003. The rezoning replaced height factor zoning districts with contextual zoning districts with greater heights on the avenues and lower heights midblock. The project site was not included in this rezoning.

As of 2010, East Harlem is comprised of approximately 120,500 residents with a median income of $31,079 (with a 5.5% 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 east and the FDR Drive and Randall's Island Park/Wards Island Park to the west. Additionally, CB 11 encompasses Thomas Jefferson Park, Marcus Garvey Park and Harlem River Park.

East Harlem Neighborhood Plan
The East Harlem Neighborhood Plan ("EHNP" or "Plan") is a community-driven comprehensive roadmap for fostering smart growth in East Harlem. The process was led by City Council Speaker Mark-Vivierito, Manhattan Community Board 11, Community Voices Heard (CVH) and our office in partnership with a 21-member steering committee of local stakeholders. Developing the plan was a yearlong process with no less than eight large public meetings, approximately 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 with ideas of how we can achieve it[2].

The proposed project is located within the study boundaries of the EHNP but no specific zoning recommendations were made for this full block site. Instead the Plan acknowledged that this site is an active project within HPD's Manhattan pipeline. According to those recommendations, all future rezonings should be done in conjunction with each other to ensure that 50 percent of the new housing on private rezoned and public sites is affordable to a variety of low- and moderate-income levels. More specifically, the Plan 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 higher than 30 percent of AMI.

Other goals of the Plan relevant to this project are that affordable housing projects include a community preference for East Harlem residents (Objective 2.10), and that minimum parking requirements be eliminated in rezonings (Objective 2.11). The Plan calls for permanent affordability when public sites are developed but in the project before us only 30 percent of the units -- those mandated under MIH – will be permanently affordable. Additionally, those units are set at no higher than 50% of AMI but the EHNP pushes for developments that include public sites to set aside at least 20% of units at no higher than 30% of AMI.

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[2] East Harlem Neighborhood Plan Report. February 2016. http://www.eastharlemplan.nyc/

Area Context
The neighborhood surrounding the project area is comprised of strong residential and commercial elements, as well as a variety of building typologies. To the south of the Project on Lexington Avenue are 6-story, mixed-use, multi-family buildings as well as buildings that were built as large, single family townhomes. To the north, on Lexington Avenue, are similar multi-family buildings. Directly to the north are public housing buildings that make up the Clinton NYCHA development. Two more buildings of the Clinton development are found along Park Avenue on either side of East 105th Street and to the east, and southeast of the project site, are Lehman Houses and Carver Houses, respectively.

A number of academic institutions border the Project Site. To the east, the Bilingual Bicultural School is located between 3rd and 2nd Avenues on 109th Street, and the Tag Young Scholars School is located between 3rd and 2ndAvenues on 109th Street. To the west, Central Park East High School and Junior High School 13 Jackie Robinson is located between 106th and 108th Streets on Madison Avenue; the Young Women Leadership School of East Harlem is located between Park Avenue and Lexington Avenue on 106th Street; Cristo Rey New York High School is located between Park and Lexington Avenues on 106th Street; and, the Heritage School is located between 105th and 106th Streets on Lexington Avenue.

In 1961, the area was predominantly zoned as R7-2 which has a maximum residential FAR of 4.0 and a maximum community facility FAR of 6.5. The commercial zoning compliments the medium density zoning with a C1-5 overlay district (maximum commercial FAR of 2.0), along Lexington Avenue until East 111th Street. The only commercial activity that was permitted on Park Avenue was four blocks of C8-4 zoning (maximum commercial FAR of 5.0, maximum community facility FAR of 6.5) from East 106th Street to East 110th Street for automotive use. As a result, Park Avenue is a very infrequently trafficked pedestrian corridor when compared to Madison Avenue to the west and Lexington Avenue to the east. The Fifth Avenue corridor is zoned R9 (maximum residential FAR of 8.0, maximum community facility FAR of 10.0) along Central Park from East 110th Street down to East 96th Street.

The central public transportation point is the Lexington Avenue No. 6 subway line. The project site is located two blocks south of the 110th Street stop and four blocks north of the 103rd Street stop. The project site is also accessible by the southbound M101, M102 and M103 bus lines on Lexington Avenue and 109th Street, the northbound M101, M102 and M103 on Third Avenue and 109th Street, and the crosstown M106 on 106th Street. The neighborhood is also now within the Citibike catchment area after the service expanded in the summer of 2016 up to 110th street.

The project site is serviced by the NYPD 23rd Precinct, located on 102nd Street between Lexington and 3rd Avenues. The project site is also located five blocks north of FDNY Engine 53 and three blocks south of FDNY Engine 91.

Project Area and Project Site
The proposed project area is comprised of a surface parking area and an existing residential building, Lexington Gardens. The surface parking area is equipped to hold approximately 88 vehicles and the Park Avenue side of the parking area , is designated for NYPD and HPD authorized vehicles only. In addition to normal fleet parking, the NYPD uses this space for

authorized trucks, two sea storage containers, and two light towers. Along 108th Street between Park and Lexington Avenues, vehicles are parked on both the street and sidewalk surface. The existing Lexington Gardens is a 116,146 square foot building is comprised of 108 residential units, a ground floor community facility Just north of this building are 25 off-street parking spaces.

The Project Area is currently zoned C8-4 along Park Avenue, R7-2 covers the entire remainder of the lot including C1-5 overlay along Lexington Avenue. The C8-4 zoning district permits Use Groups 4 through 14 and 16 and has a maximum FAR of 6.5 for a community facility and a maximum FAR of 5.0 for commercial; residential use is not permitted. This zoning district requires a 20 foot rear yard, maximum street wall height of 85 feet and a setback of 15 feet on wide streets. The R7-2 residential district with a C1-5 overlay permits Use Groups 1 through 6 and a maximum FAR of 3.6 for residential, maximum FAR of 2.0 for community facility and a maximum FAR of 6.5 for commercial use. The required rear yard is 30 feet, the maximum front wall height ranges 65 to 75 feet, and the building height is 75 to 80 feet.

Proposed Project

The principal goal of this project is to create a significant source of new, affordable housing units for the East Harlem neighborhood. Assuming that community preference will still be in effect when this building receives its Certificate of Occupancy, at least 195 units will be set aside for the residents of Community District 11. All of the units will be subject to the affordable housing lottery with the maximum income capped at 165% of AMI. The final number of units that will fall into each affordability level and under permanent affordability through MIH will likely change. The proposed breakdown is 20% of the units at up to 165% AMI, 30% of the units at up to 100% AMI and 50% of the units at up to 50% AMI. The MIH requirements would preserve 30% of the units that are currently under the "up to 50% AMI" band into perpetuity. The other 70% of the affordable units will only remain affordable under the terms and timeline of the regulatory agreement that would be required after the approval of this ULURP application.

A secondary goal of this project is achieved by the building itself. By replacing vast amounts of surface parking with active ground floor uses, and a well-designed, well lit building, this project will seek to rehabilitate the blighted portions of Block 1635. The project intends to waive zoning-related requirements for accessory surface parking spaces for the original Lexington Gardens development and replace the remaining 25 parking spaces that are required by its Federal Housing and Urban Development ("HUD") Regulatory Agreement. Those spaces will be housed within a parking garage with an entrance off of Park Avenue. A second garage will replace a municipal surface parking lot on Park Avenue that served NYPD vehicles and HPD code enforcement vehicles. This garage will allow the NYPD to maintain its fleet in nearly the same location. The garage will be accessed by an entrance on East 107th Street, across the street from existing NYPD offices. The Park Avenue side would be the most greatly improved frontage for this project. The NYPD currently uses the sidewalk for parking official vehicles and equipment, creating an unsafe environment both in terms of perception of danger and by forcing pedestrians to enter the roadway to traverse the east side of Park Avenue. The NYPD garage will eliminate sidewalk parking on this block front as an acceptable use of public space. The development will also provide a large amount of community facility space that is accessed from

and fronts Park Avenue, creating essential human activity in an area that at present actively deters it.

The interior of the project is notable because of the nature of the existing Lexington Gardens development, which has an "L" shape along the Lexington Avenue and East 107th Street frontage. The proposed Lexington Gardens II project will create an inverse "L" shape from the existing building and will create an interior courtyard for both buildings. Both developments will see a modern open space format. The residents of Lexington Gardens will receive a "backyard" area that they do not currently enjoy with the north side of the building fronting a surface parking lot. This will allow for improved passive and active recreation opportunities within both developments. The C2-4 overlay will permit the previously disallowed "Physical Culture Establishments" to occur as-of-right. The planned commercial space on Lexington Avenue will be large enough to house a gym-style facility, which is not currently available in the area.

Proposed Actions

The proposed affordable housing development will create 390 units adjacent to an older affordable housing project that preceded the current proposal by over three decades. The project team proposes to redevelop the property as a Large-scale General Development to facilitate the waiving of bulk, height and setback, street wall, and parking requirements. The Lexington Gardens II project requires the approval of five actions to allow construction to commence as currently envisioned.

*Zoning Map Change (*C 160336 ZMM)

The applicants propose a zoning map change to Zoning Sectional Map No. 3b from an existing R7-2 district with a partial C1-5 commercial overlay along Lexington Avenue and a C8-4 district along Park Avenue to an R9 district with a C2-4 overlay (maximum commercial FAR of 2) over the entirety of the block. The applicant argues that the increased residential density that is permitted by the change from R7-2 and C8-4 to R9, an increase from 4.0 residential FAR to 8.0, will allow for a project that maximizes both the available land resources as well as the financial resources that can be leveraged by the project team to generate nearly 400 affordable units. Upzoning the block will also allow the City Planning Commission to apply the Mandatory Inclusionary Housing (MIH) requirements to the project, which are elaborated in the following action, N 160337 ZRM. The change will also permit a higher community facility FAR across the site, increasing from 6.5 to 10 FAR.

The expansion of the commercial overlay from the typical avenue mapping along Lexington Avenue to the entirety of Block 1883 will allow for more flexibility for ground floor use in both the proposed Lexington Gardens II project as well as the existing Lexington Gardens development. Currently, there is no commercial overlay to the west of the existing overlay on the eastern portion of Lexington Avenue. Park Avenue is a wide street that is bisected by an elevated train viaduct that runs from East 97th Street to the Metro North station on East 125th Street and then veers over into the Bronx, crossing the Harlem River at East 132nd Street. The zoning map change from the commercial districts of C1-5 and C8-4 to a C2-4 overlay will also facilitate the inclusion of two parking garages on-site to accommodate the displacement of HPD operated off-street parking spaces.

Zoning Text Amendment (N 160337 ZRM)
Complementary to the zoning map amendment allowing for an increase to the permitted residential floor area ratio, a zoning text amendment to modify Appendix F of the Zoning Resolution to apply Mandatory Inclusionary Housing requirements to the site is required. The applicant is also requesting that the City Planning Commission and City Council apply Option 2 requirements to the site. This would require that the development dedicate no less than 30% of the residential floor area to households earning up to 80% Area Median Income ("AMI".)

Large-scale General Development (C 160338 ZSM)
In order to facilitate the construction of the mixed-used development, a special permit pursuant to Section 74-743(a)(2) of the Zoning Resolution to modify the height and setback requirements of Section 23-66 (Height and Setback Requirements for Quality Housing Buildings) and Section 35-65 (Height and Setback Requirements of Quality Housing Buildings), and the street wall location requirements of Section 35-651 (Street Wall Location) is necessary. By permitting the building height to exceed the limitations of the R9 District 60 foot sky exposure plane, the development team can arrange the bulk of the building to accommodate more floor area to be used as affordable housing. The street wall modifications will allow the applicant to set back sections of the street wall from the requirements in the Quality Housing rules to allow the flexibility to break up the street wall along East 107th and East 108th streets. By relaxing these rules, the building will not have a solid 400 feet of street wall massing and will instead feature an "undulating" street wall to give the impression of multiple buildings and allow for more visual interest.

Special Permit for the Waiver of Parking Requirements (C 160339 ZSM)
The applicant is seeking a special permit pursuant to Section 74-532 of the Zoning Resolution to modify required off-street parking spaces. The current portion of residential units in the proposed project that are above the 80% AMI threshold to qualify as "Income Restricted" will generate approximately 78 accessory parking spaces. When combined with the 25 units of the original Lexington Gardens project's accessory parking spaces that are required by an existing regulatory agreement, the project proposes a reduction of the 103 required residential parking spaces. Instead, the Project Development would accommodate some of the off-street parking spaces used by HPD that would be displaced by developing two parking garages with a total of 57 parking spaces.

Urban Development Action Area and Urban Development Action Area Project (C 160340 HAM)
HPD seeks designation of City-owned property as an Urban Development Action Area ("UDAA") and approval for the project as an Urban Development Action Area Project ("UDAAP"). In addition, HPD seeks approval for the disposition of said property to Lexington Gardens Owners LLC, which will also choose the managing agent of the facility. At the time of writing, the Owner of Lexington Gardens II intends to use Manhattan North Management.

COMMUNITY BOARD'S RECOMMENDATION

At its Full Board meeting On July 19th, 2016, CB 11 passed resolutions approving the proposed amendment to the zoning map, a special permit to modify height and setback, a special permit to

waive required off-street parking, and the designation of the Project Site as an Urban Development Action Area. In addition, the Department of Housing Preservation and Development team submitted an application to facilitate the Project Site as an affordable housing development containing 390 dwelling units, approximately 3,201 sq. ft. of commercial space and approximately 38,053 sq. ft. of community facility space. The Board voted 20 in favor, 13 in opposition and 5 abstentions.

Previous to the Full Board vote, on July 13th, 2016, the CB 11 Land Use Committee heard from L&M Properties LLC and Tahl-Propp Equities, following up on concerns regarding the lack of locally hired sub-contractors and construction workers, and building violations at their properties.. L&M Properties proposed a 10 percent goal for locally hired sub-contractors and construction workers. Currently, only 1 percent of workers are hired from CB 11. Tahl-Propp Equities reported that they are working to reduce the number of violations per building. During deliberation, members at the Land Use Committee also voiced concerns over the accuracy of the Environment Assessment Statement's ("EAS") open school seat analysis.

BOROUGH PRESIDENT COMMENTS

As proposed, Lexington Gardens II will create affordable housing for neighborhood residents for years to come. However, as I have repeatedly said previously for these types of projects, I am unsatisfied by the non-permanence of the majority of the affordable housing units that fall outside of the MIH requirements. While the terms of the financing may be counted in decades as opposed to single years, it is not an unreasonable assumption that a young family that moves into the recently completed building will see the affordability of their home expire just as they begin winding down their working careers and years working to improve their communities.

The proposed project will produce approximately 390 affordable residential units, with the potential for more when the design is finalized. According to the East Harlem Neighborhood Plan's affordable housing analysis, in the year in which this project is to be completed, Community District 11 will lose an estimated 280 units of affordable housing. The project would satisfy a major affordable housing objective of the Plan by producing a number of affordable units that would more than offset this loss. The applicant has committed to community preference for East Harlem residents which is also included as a goal in the Plan.

However, the Applicant's proposal includes the limited longevity of affordability for 70% of their housing stock and the inability to reach the deeper depth of affordability called for in the Plan's recommendations. Real property is an enduring asset with permanent value for the owner. As the City moves to shrink its portfolio of unused or underutilized land, it must do so with the intention of preserving the value of that same land to the residents of the city in perpetuity. Where requirements for permanent affordability of all units in a project built on formerly city-owned land are not possible, the city must explore mechanisms to achieve "practical permanence" as a tool for future development of projects where the City has contributed land. MIH requirements are an effective way to assure permanent affordability in private projects, but developments that use City land must be held to a higher standard. All dispositions of city-owned land have the option of attaching a restrictive covenant to the deed that establishes additional

requirements to the property owner. The city must take the concept of "practical permanence" beyond balloon payments and establish a public process that occurs at or near the expiration of the public financing and regulatory agreement to ensure true and permanent oversight of our city assets, in an effort to maintain the affordability of as close to all of the units as possible to justify the permanent disposition of city land.

In addition, when the city disposes of a permanent asset such as land there must be a means of assuring that the asset and its inhabitants will be provided a safe, well-maintained environment, in addition to its being affordable. I have concerns in the case of the current management team. In conjunction with a 2008 proposed disposition of city land to Tahl-Propp, research by elected officials and tenant advocates pointed to deteriorating conditions in many of the buildings acquired by Tahl-Propp.[3] In 2010, Tenants at 1890 Adam Clayton Powell Jr. Blvd made claims of being harassed through repeated loss of heat and hot water, among other problems. HPD ultimately took Tahl-Propp to court over these allegations[4]. Tenants at 100 West 119th Street received a $3 million settlement in July 2011 after residents claimed the building had exposed pipes, cracked hardwood floors, exposed structural beams and other problems[5]. In addition, numerous housing advocates have identified Tahl-Propp as a problem landlord and a group was formed, Harlem Tenants Against Tahl-Propp, expressly to shed light on violations in their portfolio.

Where there is a cloud over the future recipient of the property, there needs to be a mechanism that runs with the land to provide oversight and protect the residents over the life of this building. Otherwise, the city is sacrificing quality and viability of the affordable units we are all dedicated to seeing last a lifetime.

HPD has represented to me that it is working with Tahl-Propp to clear building violations in its portfolio and has encouraged them to provide progress reports to CB 11. However, this alone is insufficient. HPD must also give the future residents of the approximately 390 affordable units recourse to the city and their elected officials in perpetuity. At a minimum, such a process should involve mandated periodic updates to the community on the clearing of violations and a formalized process for redress of tenant complaints. Tenants need to be protected in a manner that will extend beyond the timeframe of our current administration.

Ultimately, this project will achieve the goals of the UDAAP in taking a blighted parcel of land and converting it into an anchor of the community in terms of housing, safety, service, and economic opportunity. Safety is improved by maintaining the NYPD presence in the general area, but without the vehicles creating a safety condition when spilling over onto the sidewalk and impeding Vision Zero goals by forcing pedestrians into the roadway around the parked vehicles. Health outcomes may improve given the new passive and active recreation spaces for both buildings on the block and by allowing physical culture establishments within a more

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[3] Serrano, Jose. *Serrano Fights Against Predatory Equity In East Harlem*. October 23, 2008. https://www.nysenate.gov/newsroom/in-the-news/jos%C3%A9-m-serrano/serrano-fights-against-predatory-equity-east-harlem

[4] Jones, David. *City takes Tahl to court in Harlem heat dispute.* January 19, 2011. http://therealdeal.com/2011/01/19/city-takes-tahl-propp-to-court-in-harlem-heat-dispute/

[5] Ibid.

appropriate C2-4 commercial overlay. The building will provide better fenestration, street lighting, and far more street activity on all sides of the block, The street environment along Park Avenue will be the biggest benefactor and with hope, this development will be an inspiration to both city planners and developers to consider Park Avenue as a place where people may want to be instead of the equivalent of a underused back alley.

The special permits to waive regulations for bulk, building setbacks, street wall, and parking waivers are all appropriate as they are necessary to maximize the amount of affordable housing without creating subpar design conditions at the ground floor of the building. The building is well served by transit and the likelihood of a high parking demand for residents is low. The desire to create an "undulating" street wall is thoughtful and should be more often pursued by larger developments that stretch over hundreds of feet along a block front. The development team has been very responsive to comments from my office and to the CB 11 Land Use Committee over the last two years. The proposed project design is the result of taking that commentary into consideration.

Through an increase in allowed residential density, the City Planning Commission will invoke MIH requirements. This is the basis of the new reality of how the City will address the affordable housing crisis through the land use considerations. While I often have concerns over height and density increases and do not believe in a zero sum game between affordable housing and neighborhood context, this neighborhood has undergone a robust pre-ULURP planning process, the East Harlem Neighborhood Plan, which espouses a balanced set of principles for these very concerns.

The increase in density from R7-2 to R9 is appropriate at this location since two wide streets bound the site, and the scale of the project will allow for a greater number of permanently affordable units through MIH. Per the East Harlem Neighborhood Plan, this neighborhood and Community Board 11 has prioritized the provision of affordable housing, especially the provision of 100 percent affordable housing, over concerns with height, for significant portions of the district when those sites border wide streets. In addition, in to prioritizing affordable housing over height comes a strong desire to eliminate parking in favor of additional affordable units or more deeply affordable units. The scale of the development site also creates other community benefits as described above. The city is still growing in population and that growth is being reflected in rising demand to live in the Borough of Manhattan. While there are concerns over building management, the greater need to house New Yorkers means that we must work with the city to demand better tools to address the need for not just affordable units but those that will be well-maintained for the lifetime of that affordability; and every effort must be made to ensure that in the case of former city-owned land, that timespan comes as close to perpetuity as possible.

BOROUGH PRESIDENT RECOMMENDATION

Therefore, the Manhattan Borough President recommends <u>approval with conditions</u> of ULURP Application Nos. C 160336 ZMM, N 160337 ZRM, C 160338 ZSM, C 160 339 ZSM, and C 160340 HAM provided that HPD and the City:

1. **Creates an enduring oversight mechanism to review and evaluate the management of the Lexington Gardens and Lexington Gardens II developments with requirements that the acting management company presents to the appropriate committee of Community Board 11, the Manhattan Borough President, and the local City Councilmember; and**
2. **Studies how to enact "practical permanence" by using restrictive covenants on the deed to compel property owners to extend the duration of affordability and regulatory requirements.**

Gale A. Brewer

Gale A. Brewer
Manhattan Borough President