



IN THE MATTER OF an application submitted by LM East 94 LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 6b

1. changing from an M1-4 District to a C2-8 District property bounded by a line 315 feet westerly of Second Avenue, a line midway between East 95th Street and East 94th Street, a line 125 feet westerly of Second Avenue, and East 94th Street;
2. changing from an M1-4 District to a C4-6 District property bounded a line 125 feet easterly of Third Avenue, a line midway between East 95th Street and East 94th Street, a line 315 feet westerly of Second Avenue, and East 94th Street;

as shown on a diagram (for illustrative purposes only) dated October 16, 2023, and subject to the conditions of CEQR Declaration E-739.

This application for a zoning map amendment was filed by LM East 94 LLC on February 16, 2023. This application, in conjunction with the related zoning text amendment (N 230242 ZRM), would facilitate the development of a mixed-use development with a Mandatory Inclusionary Housing (MIH) requirement, located at 205-239 East 94th Street (Block 1540, Lots 13, 14, and 18), in the Yorkville neighborhood of Manhattan Community District 8.

RELATED ACTIONS

In addition to the zoning map amendment application (C 230241 ZMM) that is the subject of this report, the proposed project also requires action by the City Planning Commission (CPC) on the following action, which is being considered concurrently with this application:

N 230242 ZRM	Zoning text amendment to designate a Mandatory Inclusionary Housing (MIH) area.
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BACKGROUND

The applicant seeks a zoning map amendment to rezone a portion of Block 1540 at 205-239 East 94th Street from an M1-4 zoning district to C4-6 and C2-8 zoning districts, and a zoning text amendment to map an MIH area over the proposed rezoning area to facilitate the development of an approximately 433,800 square foot, 46 -story mixed-use building.

The proposed rezoning area is located on the northern midblock of East 94th Street between Second and Third avenues on a block bounded by East 95th Street to the north, Second Avenue to the east, Third Avenue to the west, and East 94th Street to the south in the Yorkville neighborhood of Community District 8, Manhattan. The surrounding area is characterized by a mix of high-density tower developments, five-story walk-up apartment buildings with ground-floor retail uses, and institutional uses.

The proposed rezoning area is well serviced by multiple transit options, including subway and bus service; one block to the southwest is the 96th Street/Second Avenue subway station with access to the N and Q subway lines and three blocks southeast is the 96th Street subway station with access to the 4 and 6 subway lines. The M15 and M15 SBS buses run south along Second Avenue, providing service between East Harlem and the Financial District. The M101 and M102 buses run north along Third Avenue providing service between the East Village and Fort George and between the East Village and Washington Heights, respectively.

Open spaces within the surrounding area include Samuel Seabury Playground, three blocks northwest of the project area; Marx Brothers Playground, three blocks northeast of the project area; and a number of privately owned public spaces (POPS).

The proposed rezoning area has been mapped with an M1-4 zoning district since the adoption of the 1961 Zoning Resolution. M1-4 districts are light manufacturing districts that allow a maximum floor area ratio (FAR) of 2.0 for manufacturing uses and 6.5 for community facility

uses. M1-4 districts permit most commercial uses as well as light industrial uses but do not permit residential uses. Bulk regulations are governed by a sky exposure plane, which begins at a height of 60 feet, or four stories, above the street line.

The existing M1-4 zoning is a vestige of the surrounding area's industrial past. During the early 20th century, the Ruppert Brewery operated on the blocks just south of the proposed rezoning area. In 1968, a portion of the original M1-4 district from East 94th Street to East 90th Street between Second and Third avenues was designated as the Ruppert Brewery Urban Renewal Area (URA), which lasted until 2008. As part of the URA, in 1971, this area was rezoned from M1-4 and M3-2 to C2-8 and C4-6. This facilitated the development of a mix of high-rise towers along the avenues and the midblocks, local retail uses, community facility uses, and open space. Another portion of the original M1-4 district on the western midblock of the block south of the proposed rezoning area was not included in the URA but was rezoned to R8 in 1982 (C 810021 ZMM). The proposed rezoning area consists of one of the last few M1-4 zoning districts remaining in Upper East Side.

The block north of the rezoning area is zoned R8B, R10, and C2-8 and contains four 35-story mix-use elevator buildings. The corridors along Second and Third avenues in the surrounding area are primarily zoned C2-8 and improved with four- and five-story walk-up buildings with ground-floor retail. The adjacent midblock areas, east of Second Avenue and west of Third Avenue, are primarily zoned R8B and C8-4 and are mainly comprised of four- and five-story residential walk-up buildings.

The Second Avenue corridor between East 93rd Street and East 97th Street is part of the Special Transit Land Use District (TA). The Special TA District was established to facilitate a better relationship between new developments and the subway line along Second Avenue. It requires developments within the Special TA District adjoining planned and existing subway stations to reserve space in the project for public access to subway stations and subway-related uses, as

needed. This includes requirements for specific types of transit easements to provide access on the development site in place of sidewalk obstructions that impede pedestrian circulation. As required of all proposed developments and enlargements within the Special TA District, the applicant has filed a separate application for a joint Certification by the CPC and Metropolitan Transportation Authority (MTA) to determine whether a transit easement is required on this site.

The proposed rezoning area is occupied by a five-story mixed-use building, three five-story commercial office buildings, a four-story school gymnasium, two five-story residential buildings, one of which is vacant, and a four-story and a three-story parking garage.

The proposed actions would facilitate a new development containing a 46-story mixed-use building with a gross floor area of approximately 433,800 square feet on lots 13, 14, and 18 closest to Second Avenue. After the rezoning, the applicant intends to merge lots 6, 10, 111, 13, 14, and 18 into a single zoning lot. As part of the proposed development the existing parking garages and vacant residential building on lots 13, 14, and 18 would be demolished while the buildings on lots 6, 10, and 111 are proposed to remain as is, with their air rights utilized in the proposed development. Pursuant to the proposed MIH Option 1 designation, at least 25 percent of any proposed residential floor area would be reserved for permanently income-restricted housing for those with incomes averaging 60 percent of area median income (AMI).

To facilitate the proposed development, the applicant is requesting a zoning map amendment to change an M1-4 zoning district to a C4-6 and a C2-8 zoning district and a zoning text amendment to designate a new MIH area.

C4-6 zoning districts are commercial zoning districts that allow medium-density commercial uses up to 3.4 FAR, 10.0 FAR for community facility, and 10.0 FAR for residential uses, and 12.0 FAR with MIH. The proposed C4-6 zoning district is limited to a part of the northern

midblock of East 94th Street closest to Third Avenue and would extend the existing C4-6 zoning district located south of the rezoning area.

C2-8 zoning districts are commercial zoning districts that allow commercial uses up to an FAR of 2.0 and community facility and residential uses up to an FAR of 10.0. With MIH, the maximum FAR for residential uses is increased to 12.0 FAR. The C2-8 zoning district is proposed on a portion of the northern midblock of East 94th Street closest to Second Avenue and would extend to the existing C2-8 zoning district east of the rezoning area along Second Avenue. The proposed C4-6 and C2-8 zoning districts have a residential equivalent of R10 which enables both Quality Housing regulations and tower regulations.

The applicant also proposes a zoning text amendment to modify Appendix F to map MIH Option 1 on the northern midblock of East 94th Street between Second and Third avenues. Option 1 requires that a minimum of 25 percent of the residential floor area be reserved as income-restricted housing units for households earning incomes with an average not exceeding 60 percent of the AMI.

The application required a Racial Equity Report on Housing and Opportunity (RER), pursuant to Local Law 78 of 2021, due to the increase in permitted residential floor, which was submitted prior to certification. The Yorkville neighborhood tabulation area, in which the proposed rezoning area is located, is identified as having a Lowest Displacement Risk. The rezoning area is within the Upper East Side Public Use Microdata Area (PUMA). The population of the PUMA is 74 percent white non-Hispanic, 8 percent Hispanic/Latino, 3 percent Black non-Hispanic and 11 percent Asian non-Hispanic. The remaining 4 percent identified as non-Hispanic or some other race or combination of races. The Asian non-Hispanic and Hispanic/Latino populations in the PUMA have increased (by 41 percent and 19 percent, respectively) while Black non-Hispanic and White non-Hispanic populations have decreased (by 12 percent and 2 percent, respectively). The total population has increased by approximately 6 percent overall, compared

to a 7 percent increase borough-wide and an 8 percent increase City-wide. The median household income of the PUMA in its entirety is \$126,884, higher than Manhattan and New York City as a whole.

According to the Equitable Development Data Explorer, which includes data from the U.S. Census Bureau and various City Agencies, the population in PUMA increased by 5.5 percent from 2010 to 2020, while the number of housing units increased by only 0.7 percent. Since 2014, 472 income-restricted housing units have been constructed in Community District 8.

ENVIRONMENTAL REVIEW

This application (C 230241 ZMM), in conjunction with the related zoning text amendment (N 230242 ZRM), 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 lead is the City Planning Commission. The designated CEQR number is 22DCP186M.

After a study of the potential environmental impact of the proposed actions, a Negative Declaration was issued on October 13, 2023. The Negative Declaration included an (E) Designation (E-739) to avoid the potential for significant adverse impacts related to hazardous materials and air quality. The requirements of the (E) designation are described in the Environmental Assessment Statement (EAS) and Negative Declaration.

The application, as analyzed in the EAS, contained Project Components Related to the Environment (PCREs), which are set forth in the EAS “Construction” chapter. To ensure implementation of the PCREs, the applicant will enter the Restrictive Declaration at the time of approval of land-use related actions and prior to issuance of any permits.

WATERFRONT REVITALIZATION PROGRAM

This application (C 230241 ZMM), in conjunction with the related application for a zoning text amendment (N 230242 ZRM), was reviewed by the City Coastal Commission for consistency with the policies of the New York City Waterfront Revitalization Program (WRP), as amended, approved by the New York City Council on October 30, 2013 and by the New York State Department of State on February 3, 2016, pursuant to the New York State Waterfront Revitalization and Coastal Resources Act of 1981, (New York State Executive Law, Section 910 et seq.). The designated WRP number is 22-082.

UNIFORM LAND USE REVIEW

This application (C 230241 ZMM) was certified as complete by the Department of City Planning on October 16, 2023, and duly referred to Manhattan Community Board 8 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 230242 ZRM), which was referred in accordance with the procedures for non-ULURP matters.

Community Board Review

Manhattan Community Board 8 held a public hearing on this application (C 230241 ZMM) along with the related application for a zoning text amendment (N 230242 ZRM) on November 8, 2023, and on that date, by a vote of 32 in favor, four opposed, and three abstaining adopted a resolution recommending approval of the application with the following conditions.

- “1. That the proportion of affordable units be increased to 30%, but otherwise subject to the same terms as the original application, including the average affordability of 60% AMI;
2. That the building be required to remain a rental building for at least 15 years;
3. That open space be incorporated into the site;
4. That 200 parking spaces be retained on the site;
5. That the height of the building be reduced to a maximum of 355 feet;
6. That construction use all union labor or pay prevailing wage.”

Borough President Recommendation

The Manhattan Borough President held a public hearing on this application (C 230241 ZMM) along with the related application for a zoning text amendment (N 230242 ZRM) on November 20, 2023, and issued a recommendation to approve the application with the following conditions.

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

City Planning Commission Public Hearing

On December 13, 2023, (Calendar No. 5), the City Planning Commission scheduled January 3, 2024, for a public hearing on this application (C 230241 ZMM) and the related action (N 230242 ZRM). The hearing was duly held on January 3, 2023 (Calendar No. 21). Four speakers testified in favor of the application, and five in opposition.

The applicant team, comprising of three applicant representatives, testified in favor of the application, providing an overview of the proposed project. The team described the existing conditions on the site and the surrounding context and outlined the applicant’s proposed rezoning to facilitate the future development. They described the area as transit-rich, with a limited stock of income-restricted and rent-stabilized units, where housing costs are rising faster than the average rate for New York City and expressed that this proposed development would help alleviate the housing crisis. The team stressed that there are other buildings of a similar scale within the surrounding area, some of which are also in the midblock, and as such, the proposed

development is appropriate.

A representative of Local 32BJ SEIU (32BJ), a property services union, testified in favor of the application. The speaker noted that 32BJ has received a credible commitment from the developer for permanent, well-paying service jobs after construction and urged support for the project.

Five speakers testified in opposition to the proposed project. All five speakers were residents of Community District 8. The speakers emphasized that they saw the proposed development as out of character with the neighborhood. Multiple speakers echoed concerns about density in the midblock, the lack of open space provided, and the loss of light as a result of the development. One speaker expressed frustration with the loss of parking associated with this project. Speakers also expressed concern about the expiration of the 421a program and the possibility that the proposed development would not be economically feasible without 421a, forcing the owner to sell the property.

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

CONSIDERATION

The Commission believes that this application for a zoning map amendment (C 230241 ZMM), in conjunction with the related action for a zoning text amendment (N 230242 ZRM), is appropriate.

The proposed density, height, and mix of uses permitted by the proposed C4-6 and C2-8 zoning districts is appropriate at this location and aligned with the context of development and existing zoning in the surrounding area. The project area is located between the existing high density C2-8 and C4-6 commercial districts along Second and Third avenues and the midblocks south of East 94th Street. The surrounding area was rezoned from manufacturing districts to the current commercial districts to enable commercial and residential developments. The proposed

expansion of the C2-8 and C4-6 districts will allow an array of uses, including residential, within the proposed rezoning area that are more compatible with and in service to the surrounding community than those permitted by the existing M1-4 manufacturing district. Increased density and new dwelling units are particularly appropriate at a transit rich site providing access to open spaces, services, and job opportunities in nearby commercial areas.

The proposed C4-6 zoning district facilitates mixed-use buildings and continues to allow commercial uses that currently exist within the rezoning area allowed under the current M1-4 zoning, while adding the potential for residential uses. The proposed C2-8 zoning district expands an existing C2-8 district east of the rezoning area and allows mixed-use building with limited commercial use and higher density residential or community facility use.

The Commission believes that the proposed zoning text amendment for MIH (N 230242 ZRM) is appropriate. The project area will be mapped with MIH Option 1. Pursuant to MIH Option 1, any future development is required to provide 25 percent of the residential floor as permanently income-restricted housing at 60 percent AMI. The zoning text amendment will support the creation of much-needed income-restricted housing in Yorkville and Community District 8, ensuring that households in need of income-restricted housing will have options in this neighborhood. The text amendment to map MIH is in line with the City's policy to develop income-restricted housing near transit, and the goals outlined in *Housing New York* and *Where We Live*, New York City's housing reports that outline goals and strategies to affirmatively further the development of fair housing.

The Commission asserts that the proposed text amendment coupled with the proposed zoning map amendment will increase housing capacity in a transit-accessible neighborhood with a strong demand to accommodate growth, while providing affordable housing opportunities.

Regarding Manhattan Community Board 8's recommendations, the Commission notes that the

requests for 30 percent affordable housing at 60 percent AMI, a 15-year requirement to remain a rental building, 200 parking spaces, reduced height, and construction to use all union labor or pay prevailing wage are beyond the scope of the requested actions.

Regarding the Borough President's recommendations, the Commission notes that the recommendations for finding funding for additional affordable units, bedroom mix, and reduced height are beyond the scope of the requested actions.

RESOLUTION

RESOLVED, that having considered the Environmental Assessment Statement, for which Negative Declaration was issued on October 13, 2023, with respect to this application (CEQR No. 22DCP186M) the City Planning Commission finds that the actions described herein will have no significant impact on the environment; and be it further

RESOLVED, that the City Planning Commission, in its capacity as the City Coastal Commission, has reviewed the waterfront aspects of this application and finds that the proposed action is consistent with WRP policies; and be it further

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter, that based on the environmental determination and consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 6b:

1. changing from an M1-4 District to a C2-8 District property bounded a line 315 feet westerly of Second Avenue, a line midway between East 95th Street and East 94th Street, a line 125 feet westerly of Second Avenue, and East 94th Street; and

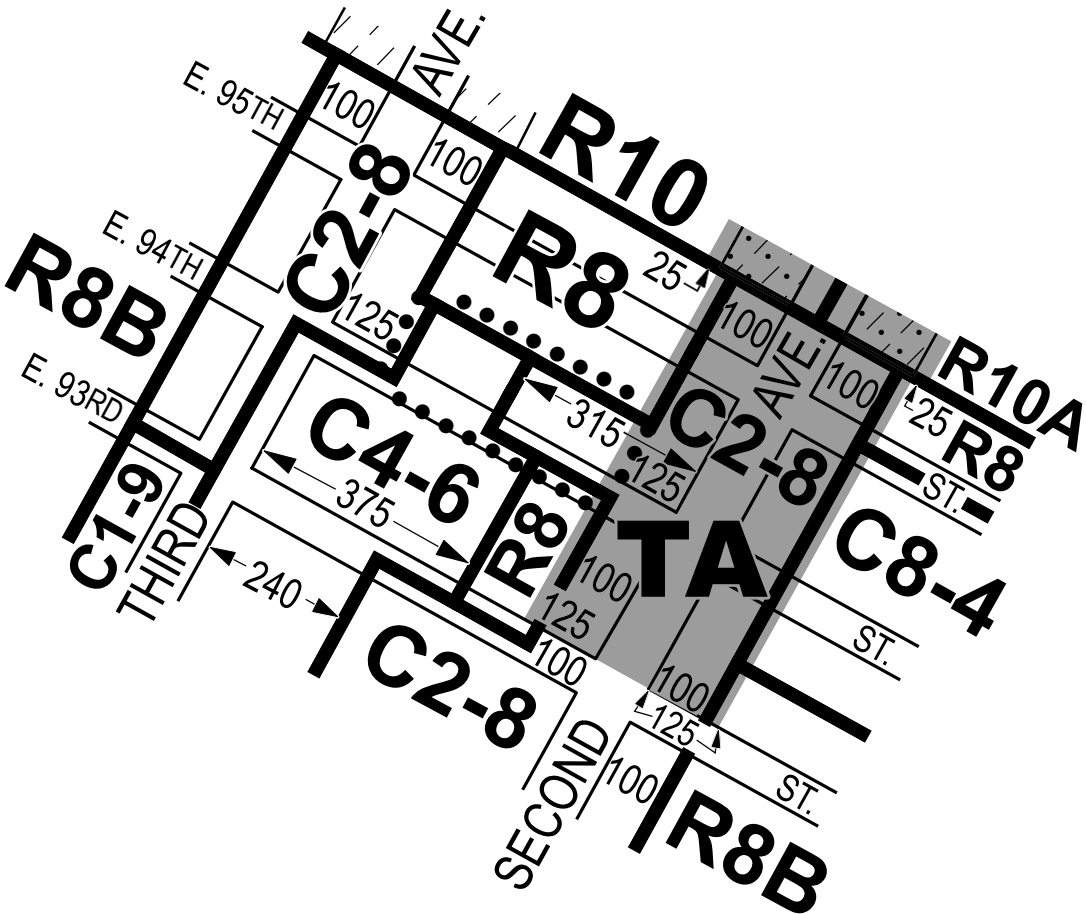
2. changing from an M1-4 District to a C4-6 District property bounded by a line 125 feet easterly of Third Avenue, a line midway between East 95th Street and East 94th Street, a line 315 feet westerly of Second Avenue, and East 94th Street;

as shown on a diagram (for illustrative purposes only) dated October 16, 2023, and subject to the conditions of CEQR Declaration E-739.

The above resolution (C 230241 ZMM), duly adopted by the City Planning Commission on February 7, 2024 (Calendar No. 22), 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.

DANIEL R. GARODNICK, Esq., *Chair,*
KENNETH J. KNUCKLES, Esq., *Vice Chairman*
ALFRED C. CERULLO, III, ANTHONY CROWELL, Esq.,
JOSEPH I. DOUEK, DAVID GOLD, Esq.,
RASMIA KIRMANI-FRYE, RAJ RAMPERSHAD, *Commissioners*

GAIL BENJAMIN, ORLANDO MARÍN,
JUAN CAMILO OSORIO, *Commissioners, VOTING NO*



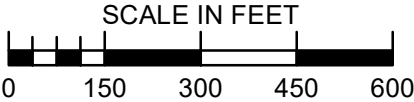
CITY PLANNING COMMISSION
CITY OF NEW YORK
DIAGRAM SHOWING PROPOSED
ZONING CHANGE
ON SECTIONAL MAP

6b
BOROUGH OF
MANHATTAN



S. Lenard
S. Lenard, Director
Technical Review Division

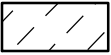
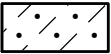


New York, Certification Date:
October 16, 2023



NOTE:

-  Indicates Zoning District Boundary
-  The area enclosed by the dotted line is proposed to be rezoned by changing an M1-4 District to C2-8 and C4-6 Districts.

-  Indicates a C1-5 District
-  Indicates a C2-5 District



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: East 94th Street Rezoning	
Applicant: LM East 94 LLC	Applicant's Primary Contact: Eric Knowles
Application # N230242ZRM	Borough:
CEQR Number: 22DCP186M	Validated Community Districts: M08

Docket Description:

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

RECOMMENDATION: Conditional Favorable			
# In Favor: 32	# Against: 4	# Abstaining: 3	Total members appointed to the board: 39
Date of Vote: 11/8/2023 12:00 AM		Vote Location: Ramaz School - Heyman Auditorium 125 East 85th Street	

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

Date of Public Hearing: 11/8/2023 6:30 PM	
Was a quorum present? Yes	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
Public Hearing Location:	Hybrid - Ramaz School at 125 East 85th Street and Zoom https://www.cb8m.com/event/28192/

CONSIDERATION: At the Land Use Committee meeting of Community Board 8 Manhattan held on Wednesday, November 8, 2023, the board approved the following resolution by a vote of 32 in favor, 4 opposed, 3 abstentions, and 0 not voting for cause:

WHEREAS: this is an application by LM East 94 LLC requesting a zoning map change for a portion of East 94th Street between Second and Third Avenues from an M1-4 district to a C4-6 and C2-8 district and a zoning text amendment to map an MIH area, to facilitate the development of a new residential housing development at 231 East 94th Street; therefore

BE IT RESOLVED that Community Board 8 Manhattan APPROVES this application subject to the following conditions:

- That the proportion of affordable units be increased to 30%, but otherwise subject to the same terms as the original application, including the average affordability of 60% AMI;
- That the building be required to remain a rental building for at least 15 years;
- That open space be incorporated into the site;
- That 200 parking spaces be retained on the site;
- That the height of the building be reduced to a maximum of 355 feet;
- That construction use all union labor or pay prevailing wage;

BE IT FURTHER RESOLVED that Community Board 8 Manhattan's conditional approval of this application should not be understood as diminishing Community Board 8 Manhattan's commitment to maintaining lower density mid-block through R8-B zoning, and Community Board 8 continues to strongly support maintenance of R8-B zoning everywhere it exists in our community district.

Recommendation submitted by	MN CB8	Date: 11/15/2023 4:50 PM
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Russell Squire
Chair

Will Brightbill
District Manager



**The City of New York
Community Board 8 Manhattan**

505 Park Avenue, Suite 620
New York, N.Y. 10022-1106
(212) 758-4340
(212) 758-4616 (Fax)
www.cb8m.com – Website
info@cb8m.com – E-Mail

November 15, 2023

Daniel R. Garodnick, Chair
City Planning Commission
120 Broadway, 31st Floor
New York, NY 10271

Re: East 94th Street Rezoning (ULURP Nos. 230241ZMM and N230242ZRM)

Dear Chair Garodnick,

At the Land Use Committee meeting of Community Board 8 Manhattan held on Wednesday, November 8, 2023, the board approved the following resolution by a vote of 32 in favor, 4 opposed, 3 abstentions, and 0 not voting for cause:

WHEREAS: this is an application by LM East 94 LLC requesting a zoning map change for a portion of East 94th Street between Second and Third Avenues from an M1-4 district to a C4-6 and C2-8 district and a zoning text amendment to map an MIH area, to facilitate the development of a new residential housing development at 231 East 94th Street; therefore

BE IT RESOLVED that Community Board 8 Manhattan **APPROVES** this application subject to the following conditions:

- That the proportion of affordable units be increased to 30%, but otherwise subject to the same terms as the original application, including the average affordability of 60% AMI;
- That the building be required to remain a rental building for at least 15 years;
- That open space be incorporated into the site;
- That 200 parking spaces be retained on the site;
- That the height of the building be reduced to a maximum of 355 feet;
- That construction use all union labor or pay prevailing wage;

BE IT FURTHER RESOLVED that Community Board 8 Manhattan's conditional approval of this application should not be understood as diminishing Community Board 8 Manhattan's commitment to maintaining lower density mid-block through R8-B zoning, and Community Board 8 continues to strongly support maintenance of R8-B zoning everywhere it exists in our community district.

Please advise our office of any action taken on this matter.

Sincerely,

Russell Squire

Russell Squire
Chair

cc: Honorable Kathy Hochul, Governor of New York
Honorable Eric Adams, Mayor of the City of New York
Honorable Mark Levine, Manhattan Borough President
Honorable Jerry Nadler, 12th Congressional District Representative
Honorable Liz Krueger, NYS Senator, 28th Senatorial District
Honorable José M. Serrano, NYS Senator, 29th Senatorial District
Honorable Edward Gibbs, NYS Assembly Member 68th Assembly District
Honorable Alex Bores, NYS Assembly Member, 73rd Assembly District
Honorable Rebecca Seawright, NYS Assembly Member 76th Assembly District
Honorable Keith Powers, NYC Council Member, 4th Council District
Honorable Julie Menin, NYC Council Member, 5th Council District



BOROUGH PRESIDENT RECOMMENDATION

Project Name: East 94th Street Rezoning	
Applicant: LM East 94 LLC	Applicant's Administrator: Eric Knowles
Application # N230242ZRM	Borough: Manhattan
CEQR Number: 22DCP186M	Validated Community Districts: M08

Docket Description:
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Please use the above application number on all correspondence concerning this application

RECOMMENDATION: Conditional Favorable
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Please attach any further explanation of the recommendation on additional sheets as necessary

CONSIDERATION: 		
Recommendation submitted by	MN BP	Date: 11/20/2023 1:23 PM



OFFICE OF THE

MANHATTAN BOROUGH PRESIDENT

1 Centre Street, 19th Floor, New York, NY 10007
(212) 669-8300 p (212) 669-4306 f
431 West 125th Street, New York, NY 10027
(212) 531-1609 p (212) 531-4615 f
www.manhattanbp.nyc.gov
Mark Levine, Borough President

November 20, 2023

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

PROPOSED ACTIONS

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

The Applicant proposes the following actions:

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

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

BACKGROUND

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

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

¹ [Upper East Side/Streetscapes - Empires of Rival Brewers - The New York Times \(nytimes.com\)](https://www.nytimes.com/2016/01/03/nyregion/upper-east-side-streetscapes-empire-of-rival-brewers.html)

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

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

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

Proposed Development

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

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

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

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

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

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

Area Context

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

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

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

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

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

COMMUNITY BOARD RESOLUTION

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

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

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

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

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

BOROUGH PRESIDENT’S COMMENTS

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

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

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

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

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

BOROUGH PRESIDENT'S RECOMMENDATION

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

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



Mark Levine
Manhattan Borough President