



CITY PLANNING COMMISSION  
CITY OF NEW YORK

OFFICE OF THE CHAIR

## **NEGATIVE DECLARATION**

### **Project Identification**

CEQR No. 17DCP046M

ULURP No. N170282ZRM

SEQRA Classification: Type I

### **Lead Agency**

City Planning Commission

120 Broadway, 31<sup>st</sup> Floor

New York, NY 10271

Contact: Robert Dobruskin

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### **Name, Description and Location of Proposal:**

#### **East River Fifties/ Sutton Place Text Amendment**

The applicant, East River Fifties Alliance, Inc., and co-applicants Manhattan Borough President Gale Brewer, New York City Council Members Daniel Garodnick and Ben Kallos, and New York State Senator Liz Krueger seek approval of a series of zoning text amendments to create contextual zoning regulations and to establish a voluntary Inclusionary Housing Designated Area (IHDA) in the East River Fifties/Sutton Place neighborhood of Manhattan, Community District 6. The Proposed Action would require new developments to comply with maximum building height and façade articulation requirements, and would map an Inclusionary Housing Designated Area (IHDA) coterminous with the Affected Area. The directly Affected Area consists of all or portions of 10 tax blocks which are generally bounded by the East River / FDR Drive to the east, East 59th Street to the north, 100 feet east of First Avenue to the west, and mid-block between East 51st Street and East 52nd Street to the south.

The land use action (the "Proposed Action") includes: (1) a zoning text amendment to create contextual zoning regulations for a defined "East River Fifties Area" that would modify the application of the existing R10 zoning district in the Affected Area relating to bulk and use within the East River Fifties Area; and (2) a zoning text amendment to Appendix F of the Zoning Resolution (ZR) to establish an Inclusionary Housing Designated Area (IHDA) coterminous with the Affected Area. The proposed text amendment would modify the existing IH program as it applies to the East River Fifties Area and would permit a maximum floor area ratio (FAR) of 13.0, with up to 12.0 FAR for residential uses (with Inclusionary Housing), and 1.0 FAR for community facility uses.

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The proposed text amendment would award bonus residential floor area at a rate of 1.25 square feet of bonus residential floor area for every one square foot of affordable floor area. Full participation would result in 1.6 FAR of affordable residential floor area, in exchange for 2.0 FAR of bonus residential floor area. In addition, developments participating in the IH program would be entitled to a maximum FAR of 13, which would allow 1.0 FAR of community facility space.

The Proposed Action would require new development to comply with Quality Housing regulations. Sites being developed under the proposed IH program would have a maximum height of 260 feet on both wide and narrow streets. All other development would be subject to maximum building heights of 210 feet on narrow streets and 235 within 100 feet of a wide street. The Proposed Action would also require façade articulation along streetwall segments over 80 feet wide.

Currently, the Affected Area is zoned R10, with a C2-5 commercial overlay on a small portion of Block 1370. R10 zoning districts allow for a maximum FAR of 10.0 for residential and community facility uses. The voluntary R10 IH program permits a 20 percent (2.0 FAR) increase in residential floor area in exchange for providing 4.76 percent of units as affordable housing. In terms of built form, R10 districts do not have maximum building heights under standard tower and tower-on-a-base regulations as long as certain provisions regarding setbacks from narrow and wide streets are met. There are no height limits unless the building is constructed pursuant to optional Quality Housing regulations. Under Quality Housing, there is a maximum building height of 185 feet on narrow streets and 210 feet (or 215 feet with a qualifying ground floor) within 100 feet of a wide street.

Four Projected Development Sites (including one site on which three buildings are projected to be developed) have been identified as likely to be redeveloped as a result of the Proposed Action. While it is not known whether development would occur pursuant to the voluntary IH program as proposed, the assumptions provide a sufficiently conservative analysis framework for environmental review purposes. Redevelopment of the sites would result in shorter buildings than what is currently permitted by zoning on three of the sites. All four sites are expected to include more affordable housing than under the current R10 IH program. The With-Action condition could result in the development of 731 market rate units and 92 affordable units pursuant to the proposed IH regulations, for a total of 823 units. Community facility uses are anticipated to be developed on two of the Projected Development Sites, for a total of 83,764 square feet of community facility space. Building heights are expected to range from 159 feet to 260 feet, and one building is anticipated to be developed to a height of 537 feet.

Absent the Proposed Action, development in the Affected Area is expected to occur pursuant to the current zoning regulations. The No-Action condition would result in the development of 848 market-rate units and 40 affordable units assuming a 4.76 percent affordability rate pursuant to the voluntary R10 IH program for a total of 888 units. With one exception, building heights are projected to be over 490 feet with one building developed to a height of 1,000 feet.

Compared to the No-Action Condition, the Proposed Action would result in an incremental decrease of 117 market-rate dwelling units and an incremental increase of 52 affordable dwelling units, resulting in an overall decrease of 65 dwelling units. There would also be an increase of 79,210 square feet of Community Facility space.

It is expected that development of the four Projected Development Sites would be completed by 2027.

To avoid the potential for significant adverse impacts related to hazardous materials an air quality, an (E) designation (E-420) has been incorporated into the proposed actions, as described below.

The (E) designation requirements related to hazardous materials would apply to the following sites:

- Block 1368, Lot 39 (Projected Development Site 1)**
- Block 1364, Lot 47 (Projected Development Site 2)**
- Block 1367, Lot 10 (Projected Development Site 3)**
- Block 1369, Lots 22, 29, 30, 34, 35, 36, 129 and 133 (Projected Development Site 4)**

The (E) designation text related to hazardous materials is as follows:

#### **Task 1-Sampling Protocol**

**The applicant submits to OER, for review and approval, a Phase I of the site along with a soil, groundwater and soil vapor testing protocol, including a description of methods and a site map with all sampling locations clearly and precisely represented. If site sampling is necessary, no sampling should begin until written approval of a protocol is received from OER. The number and location of samples should be selected to adequately characterize the site, specific sources of suspected contamination (i.e., petroleum based contamination and non-petroleum based contamination), and the remainder of the site's condition. The characterization should be complete enough to determine what remediation strategy (if any) is necessary after review of sampling data. Guidelines and criteria for selecting sampling locations and collecting samples are provided by OER upon request.**

#### **Task 2-Remediation Determination and Protocol**

**A written report with findings and a summary of the data must be submitted to OER after completion of the testing phase and laboratory analysis for review and approval. After receiving such results, a determination is made by OER if the results indicate that remediation is necessary. If OER determines that no remediation is necessary, written notice shall be given by OER.**

**If remediation is indicated from test results, a proposed remediation plan must be submitted to OER for review and approval. The applicant must complete such remediation as determined necessary by OER. The applicant should then provide proper documentation that the work has been satisfactorily completed.**

**A construction-related health and safety plan should be submitted to OER and would be implemented during excavation and construction activities to protect workers and the community from potentially significant adverse impacts associated with contaminated soil, groundwater and/or soil vapor. This plan would be submitted to OER prior to implementation.**

The (E) designation requirements related to air quality would apply to the following sites:

- Block 1368, Lot 39 (Projected Development Site 1)**
- Block 1364, Lot 47 (Projected Development Site 2)**
- Block 1367, Lot 10 (Projected Development Site 3)**
- Block 1369, Lots 22, 29, 30, 34, 35, 36, 129 and 133 (Projected Development Site 4)**

The (E) designation text related to air quality is as follows:

**Block 1368, Lot 39 (Projected Development Site 1)**

**Any new residential development on the above-referenced property must exclusively use natural gas as the type of fuel for the heating, ventilating and air conditioning (HVAC) systems, and ensure that the HVAC stack(s) is located at the highest tier or at least 248 feet above grade to avoid any significant adverse air quality impacts.**

**Block 1364, Lot 47 (Projected Development Site 2)**

**Any new residential and/or commercial development on the above-referenced property must exclusively use natural gas as the type of fuel for the heating, ventilating and air conditioning (HVAC) systems, and ensure that the HVAC stack(s) is located at the highest tier or at least 540 feet above grade to avoid any significant adverse air quality impacts.**

**Block 1367, Lot 10 (Projected Development Site 3)**

**Any new residential development on the above-referenced property must exclusively use natural gas as the type of fuel for the heating, ventilating and air conditioning (HVAC) systems, and ensure that the HVAC stack(s) is located at the highest tier or at least 263 feet above grade, and at least 110 feet from the lot line facing First Avenue to avoid any significant adverse air quality impacts.**

**Block 1369, Lots 34, 35, 36, and 133 (Projected Development Site 4a)**

**Any new residential development on the above-referenced property must exclusively use natural gas as the type of fuel for the heating, ventilating and air conditioning (HVAC)**

systems, and ensure that the HVAC stacks(s) is located at the highest tier or at least 260 feet above grade, and at least 25 feet from the lot line facing First Avenue, at least 10 feet from the lot line facing Sutton Place, and at least 25 feet from lot line facing East 58th Street, to avoid any significant adverse air quality impacts.

**Block 1369, Lots 29, 30 and 129 (Projected Development Site 4b)**

Any new residential development on the abovereferenced property must exclusively use natural gas as the type of fuel for the heating, ventilating and air conditioning (HVAC) systems, and ensure that the HVAC stacks(s) is located at the highest tier or at least 260 feet above grade, and at least 10 feet from the lot line facing First Avenue, and at least 25 feet from lot line facing East 58th Street, to avoid any significant adverse air quality impacts.

**Block 1369, Lot 22 (Projected Development Site 4c)**

Any new residential development on the above-referenced property must exclusively use natural gas as the type of fuel for the heating, ventilating and air conditioning (HVAC) systems, and ensure that the HVAC stack(s) must be located at the highest tier or at least 208 feet above grade, and at least 30 feet from the lot line facing East 58th Street, to avoid any significant adverse air quality impacts. Additionally, any new residential development on the above-referenced property must ensure that fossil fuel-fired equipment meets applicable Department of Building Code provisions regarding the placement of exhausts to ensure they are equal to or taller than operable windows or air intakes on adjacent buildings, provided that this measure may be modified, or determined to be unnecessary, based on new information or technology, additional facts or updated standards that are relevant at the time the site is ultimately developed.

The (E) designation requirements related to noise would apply to the following site:

**Block 1368, Lot 39 (Projected Development Site 1)**

**Block 1367, Lot 10 (Projected Development Site 3)**

The (E) designation text related to noise is as follows:

**Block 1368, Lot 39 (Projected Development Site 1)**

To ensure an acceptable interior noise environment, future residential and/or community facility uses on the above-referenced property must provide a closed-window condition with a minimum of 28 dB(A) window/wall attenuation on all building façades in order to maintain an interior noise level of 45 dB(A) for residential use to avoid any potential significant impacts. The minimum required composite building façade attenuation for future commercial uses would be 5 dB(A) less than that for residential uses. In order to maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air

**conditioning or air conditioning sleeves containing air conditioners.**

**Block 1367, Lot 10 (Projected Development Site 3)**

**To ensure an acceptable interior noise environment, future residential and/or community facility uses on the above-referenced property must provide a closed-window condition with a minimum of 28 dB(A) window/wall attenuation on all building façades in order to maintain an interior noise level of 45 dB(A) for residential use to avoid any potential significant impacts. The minimum required composite building façade attenuation for future commercial uses would be 5 dB(A) less than that for residential uses. In order to maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning or air conditioning sleeves containing air conditioners.**

**Statement of No Significant Effect:**

The Environmental Assessment and Review Division of the Department of City Planning, on behalf of the City Planning Commission, has completed its technical review of the Environmental Assessment Statement, dated June 2, 2017, prepared in connection with the ULURP Application (No. N170282ZRM). The City Planning Commission has determined that the proposed action will have no significant effect on the quality of the environment.

**Supporting Statement:**

The above determination is based on an environmental assessment which finds that:

1. The proposed action has been reviewed for potential inconsistencies in land use, zoning, and public policy. The analysis demonstrates the proposed action, while inconsistent with some aspects of land use, zoning, and public policy as noted above, would not cause a significant adverse impact in any of these areas.
2. The (E) designation (E-420) would ensure that the proposed actions would not result in significant adverse impacts related to for hazardous materials, air quality and noise.
3. No other significant effects on the environment which would require an Environmental Impact Statement are foreseeable.

This Negative Declaration has been prepared in accordance with Article 8 of the Environmental Conservation Law 6NYCRR part 617.

Should you have any questions pertaining to this Negative Declaration, you may contact Stephanie Shellooe at (212) 720-3328.

Robert Dobruskin  
Robert Dobruskin, Director  
Environmental Assessment & Review Division  
Department of City Planning

Date: June 2, 2017

Marisa Lago  
Marisa Lago, Chair  
City Planning Commission

Date: June 5, 2017