

Borough President Recommendation

City Planning Commission
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INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission at the above address.
2. Send one copy with any attachments to the applicant's representative as indicated on the Notice of Certification.

Application #: **C 190158 ZMM N 190156 ZRM**

Docket Description:

IN THE MATTER OF an application submitted by Catholic Health Care System pursuant to Sections 197-c and 201 of the New York City Charter for:

- 1) an amendment to the Zoning Map, Section 6b, by changing from an R7-2 District to an R8 District property bounded by East 106th Street, Madison Avenue, East 105th Street and a line 150 feet easterly of Fifth Avenue, Borough of Manhattan, Community District 11.
- 2) An amendment of the Zoning Map, Section No. 6b, from an R7-2/C1-5 District to an R8/C1-5 District property bounded by East 106th Street, Madison Avenue, East 105th Street, and a line 100 feet west of Madison Avenue

IN THE MATTER OF an application submitted by Catholic Health Care System pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying Appendix F (Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Designated Areas) for the purpose of establishing a Mandatory Inclusionary Housing ("MIH") area permitting MIH Option 2 in the Rezoning Area.

COMMUNITY BOARD NO: 11

BOROUGH: Manhattan

RECOMMENDATION

- APPROVE
- 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.

John A. Brewer

August 8, 2019

BOROUGH PRESIDENT

DATE



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BOROUGH OF MANHATTAN
THE CITY OF NEW YORK

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Gale A. Brewer, Borough President

August 8, 2019

**Recommendation on ULURP Application Nos. C 190158 ZMM and N 190156 ZRM -
Terence Cardinal Cooke by Catholic Health Care Systems (ArchCare)**

PROPOSED ACTIONS

Catholic Health Care Systems d/b/a ArchCare (“Applicant”), is seeking approval of multiple land use actions to facilitate the modernization of the Terence Cardinal Cooke Health Center (TCC), the development of a 10-story senior supportive housing development, a 2-story building located mid-block for a Program of All-Inclusive Care for the Elderly, and a 32-story residential building located on Madison Avenue between East 105th Street and East 106th Street (Block 1611, Lots 15 and p/o 1) in the East Harlem neighborhood, Community District 11 (CB11), in the Borough of Manhattan.

The actions include:

(1) Zoning Map Amendments (N 190158 ZMM):

- a. An amendment of the Zoning Map, Section No. 6b, from an R7-2 District to an R8 District property, bounded by East 106th Street, a line 100 feet west of Madison Avenue, and East 105th Street, a line 150 feet east of Fifth Avenue;
- b. An amendment of the Zoning Map, Section No. 6b, from an R7-2/C1-5 District to an R8/C1-5 District property bounded by East 106th Street, Madison Avenue, East 105th Street, and a line 100 feet west of Madison Avenue;

(2) Zoning Text Amendment (N 190156 SRM):

- a. An amendment of the Zoning Resolution to modify Appendix F (Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Designated Areas) for the purpose of establishing a Mandatory Inclusionary Housing (“MIH”) area permitting MIH Option 2 in the Rezoning Area.

Zoning Map Change and Text Amendment

In evaluating these land use actions, the office of the Manhattan Borough President must consider if the proposed language meets the underlying premise of the Zoning Resolution of promoting the general health, safety and welfare of the neighborhood in which this project is being proposed and whether the development would be appropriate to the neighborhood. 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.

The Project Area consists of a single zoning lot comprised of Manhattan Block 1611, Lots 1 and 15, which is bounded by East 106th Street, Madison Avenue, East 105th Street, and Fifth Avenue. The Project Addresses are 1249 Fifth Avenue, 2-26 East 106th Street, 1560-1578 Madison Avenue, and 1-29 East 105th Street located in Manhattan Community District 11.

The requested zoning map and text amendments will facilitate construction at the Development Site which currently consists of the Flower Building, the Garage, the Annex, and the Cohen Building. The Flower Building would be maintained and renovated while the Garage, the Annex, and the Cohen Building would be demolished. The Garage is to be replaced by the development of a Senior Residence (at East 105th Street and Madison Avenue) with an estimated 150 affordable units. The Annex and the Cohen Building would be demolished and replaced with the development of a New Residential Building and medical offices for the Program of All-Inclusive Care for the Elderly (PACE Center).

PROJECT DESCRIPTION

In order to continue operations to meet community needs, the Applicant has determined that it requires (i) a renovated but reduced-capacity Skilled Nursing Facility and Hospital; (ii) housing for seniors with low-acuity health conditions; and (iii) approximately \$100 million to fund the modernization of the Flower Building. The Applicant proposes to meet these needs by:

- Reducing the Skilled Nursing Facility to approximately 320-350 beds and consolidating it into the pre-existing Flower Building;
- Relocating the 50-bed Hospital into the Flower Building with the Skilled Nursing Facility;
- Demolishing the existing facilities of the Garage, the Annex, and the Cohen Building;
- Developing a Senior Residence facility for seniors whose medical conditions do not require the full services of a Skilled Nursing Facility. The Senior Residence will have an estimated 150 permanently affordable units;
- Developing a community facility and medical office center for the Program of All-Inclusive Care for the Elderly (a “PACE Center”); and

- Developing, or causing to develop, a residential building (the “New Residential Building”) that would allow for the Applicant’s investment in improving the Flower Building.

The Applicant suggests that this application for rezoning and the subsequent Proposed Development enabled by the rezoning is aligned with both the Applicant’s mission and the goals of the “Housing New York: A Ten-Year, Five-Borough Plan” by enabling the continuation of comprehensive health care provisions to high-need populations and the development of permanently affordable housing.

Background

The Applicant, ArchCare, is an affiliate and the sole corporate member of the Terence Cardinal Cooke Health Care Center (“TCC”), a not-for-profit corporation that holds title to the Project Area. According to the Land Use Application, ArchCare is a not-for-profit corporation that serves as “the continuing care ministry of the Archdiocese of New York.” The Applicant operates a 559-bed Skilled Nursing Facility and a 50-bed specialty Hospital on the three-building campus of the Project Area. Currently, the Proposed Development Site consists of an 11-story building on Fifth Avenue (the Flower Building), a one-to-nine-story building at the mid-block (the Annex), and a 10-story building at the corner of Madison Avenue and East 105th Street (the Garage).

According to the Applicant, TCC includes a Skilled Nursing Facility and a specialty Hospital that serves a predominately low-income population. The Skilled Nursing Facility provides health services such as short-term rehabilitation for patients transitioning out of the hospital after serious illnesses, injuries or surgeries; long-term residential care; specialized treatment for neurodegenerative disorders; HIV-AIDS, end-stage renal disease, and Alzheimer’s disease. The Hospital provides comprehensive medical care to people (primarily young adults) with profound developmental disabilities and other complex medical conditions.

The federal and state governments are increasingly providing incentives for low-cost home-and community-based health care. Long-term in-patient care is being discouraged where it is unnecessary. As such, it is anticipated that the demand for beds in the Skilled Nursing Facility will decrease, and that a portion of the current population may be housed in senior housing. The Applicant aims to reduce the number of beds in the Skilled Nursing Facility, and move its services and the Hospital into the existing Flower Building. The development of a new Senior Residence with 100% supportive-affordable housing will include approximately 150 units that will account for the reduction of beds.

The TCC buildings are in need of substantial repair and modernization. The Applicant has estimated that \$100M is needed to fund TCC’s modernization. This application for zoning map and text amendments furthers the goals of repairing and modernizing TCC’s facilities by enabling the development of a new Senior Residence building, a community facility and medical offices center (“the PACE Center”), and a New Residential Building. The New Residential Building will assist in financing necessary upgrades for the existing Flower Building where the Skilled Nursing Facility and Hospital services will be relocated.

The Applicant notes that the rezoning of the R7-2 and R7-2/C1-5 districts to R8 and R8/C1-5 results in a net zero gain in maximum Floor Area Ratio (“FAR”). As a result of the Project Area’s unique location within split zoning districts, split lot rules pursuant to ZR § 77-22 apply permitting a maximum FAR of 7.75. The proposed zoning would permit more of the development to be used for residential use. The rezoning will allow the following Zoning Square Feet (“ZSF”) for each building facility: Flower Hill at 187,841 ZSF, the PACE Center at 53,000 ZSF, the Senior Residence Facility at 85,100 ZSF, and the New Residential Building at 331,000 ZSF.

History

The current uses at the Project Area are the result of several land use actions approved by the Board of Standards and Appeals and the City Planning Commission since the 1970’s. Over the course of 50 years, nursing home services have expanded pursuant to City Planning Commission Special Permits and a city-wide text amendment to the Zoning Resolution. The following is a brief timeline of the most relevant land use actions affecting the Project Area during this period:

In 1982, the City Planning Commission granted a special permit pursuant to Zoning Resolution Section 74-90 to allow nursing home beds at TCC in a health-care facility with intermediate care and specialty hospital beds (C 820414 ZSM, Cal. No. 51).

In 1985, the City Planning Commission approved a modification to the special permit to allow an increase in the number of specialty hospital beds at TCC.

In 1987, the City Planning Commission granted a new special permit pursuant to ZR Section 74-90 to increase the number of nursing home beds and decrease the number of specialty hospital beds at TCC (C 870316 ZSM, Cal No. 45).

In 2000, the City Planning Commission granted another new special permit pursuant to ZR Section 74-90 to enlarge the existing nursing home (C 000101 ZSM, Cal. No. 19).

The Zoning Resolution provisions requiring a special permit for nursing homes and health-related facilities (now referred to as long-term care facilities) in R3 through R10 districts were deleted from the Zoning Resolution as part of the Zoning for Quality & Affordability Citywide Text Amendment (N 160049 ZRY, Cal. No. 3. Deleted ZR Section 2-42 Certification of Certain Community Facility Uses and modifying ZR Section 74-90).

The East Harlem Neighborhood Plan

In 2016, the East Harlem Neighborhood Plan was issued and it proposed rezoning to an R8 district along the west side of Madison Avenue between 102nd and 106th Streets. However, the final study area for the East Harlem Rezoning, defined by the Department of City Planning, did not include the blocks from 102nd to 106th Streets along Madison Avenue for rezoning to an R8 district.

Proposed Development

The project consists of the renovation of the Flower Building, the demolition of the other two buildings within the TCC campus, and the development of three new buildings. The Senior Residence, the new residential building, and the Program of All-Inclusive Care for the Elderly (PACE Center) will all be new developments. The Flower Building would be maintained and renovated while the Garage, the Annex, and the Cohen building would be demolished. The Garage would be replaced by the development of the Senior Residence Facility. The Annex and the Cohen Building would be replaced with the developments of the New Residential Building and the PACE Center.

The Applicant seeks to maintain the Flower Building as a health-care facility, which was constructed in 1922 as a hospital. The Flower Building will be occupied by two types of community facility uses: long-term care facilities via their Skilled Nursing Facility program defined in ZR Section 12-10 (group 3) and a Hospital (group 4). The Flower Building can accommodate a 350-bed skilled nursing facility, 50-bed specialty hospital, and related systems and facilities that serve both entities (e.g. boilers, chillers, emergency generators, information technology, administrative offices, kitchen, cafeteria, pharmacy, and staff locker rooms). The relocation of skilled nursing facility beds to the Flower Building would only require a single move for patients. The reconfiguration of the Applicant's health care facilities due to this move would create an opportunity for new development after demolition of the existing Annex, the Cohen Building, and the Garage.

The new Proposed Development would consist of the Senior Residence, the PACE Center, and the New Residential Building. The Applicant plans to demolish the Garage and construct the Senior Residence at East 105th Street and Madison Avenue. The Senior Residence is planned to be approximately an eight-story, 85,100 ZSF building of an estimated 150 "supportive housing units as defined in ZR Section 23-90" and designated as sleep accommodations (group 3, community facility). All the floor area in the Senior Residence building will be "affordable floor area" as defined in ZR Section 23-90 and enable the nearby New Residential Building to qualify as a Mandatory Inclusionary Housing ("MIH") Option 1 or 2 development as defined in ZR Section 23-90.

The Applicant plans to demolish the existing Annex and the Cohen Building and replace them with the development of the New Residential Building and the PACE Center. The New Residential Building will be located at East 106th Street and Madison Avenue and will be approximately a 32-story, 356-foot, 331,000 ZSF building. The PACE Center will be located at the midblock as a roughly two-story, 53,000 ZSF building.

The total floor area of all new development of the New Residential Building, PACE Center, and the Senior Residence Building is approximately 469,100 ZSF (5.53 FAR). Combined with the floor area of the 187,841 ZSF (2.22 FAR) Flower Building, the Project Area would contain approximately 656,941 ZSF (7.75 FAR).

The application for the rezoning of the R7-2 and R7-2/C1-5 to an R8 and R8/C1-5 results in the same total development Floor Area Ratio ("FAR") as the current zoning, but permits more of the

development to be used for residential use. The greater utilization of floor area in the proposed R8 district would yield roughly 379 residential units in the New Residential Building at 331,000 ZSF as opposed to 213 residential units with approximately 186,000 ZSF when regulated by the current status as an R7-2 District.

Area Context

The Project Area is located in the southeastern area of East Harlem, Manhattan Community District 11. The Project Area consists of a single zoning lot that is comprised of Manhattan Block 1611, Lots 1 and 15, which is bounded by East 106th Street to the north, Madison Avenue to the east, East 105th Street to the south, and Fifth Avenue to the west. The Project Addresses are 1249 Fifth Avenue, 2-26 East 106th Street, 1560-1578 Madison Avenue, and 1-29 East 105th Street located in Manhattan Community District 11.

The surrounding area is generally characterized by a mix of institutional, educational, and residential uses. The more prominent facilities nearby include the Lakeview Apartments, the Central Park East High School, the Carver Houses, El Museo del Barrio, the Reece School, a parking facility, the Museum of the City of New York, P.S. 171 Patrick Henry, the New York Academy of Medicine, the campus of Mount Sinai Hospital, and residential buildings ranging from five to 15-stories. Central Park is located to the west of the Project Area, across Fifth Avenue.

The Harlem-East Harlem Urban Renewal Area and the Milbank Frawley Circle East Urban Renewal Area are located to the north of the Project Area.

The area is serviced by the Lexington Avenue 6-line train stations at East 103rd and East 110th Streets. The M1, M2, M3, and the crosstown M106 buses run north along Madison Avenue and south on Fifth Avenue with the closest north bound bus stop located on East 106th Street and Madison Avenue.

COMMUNITY BOARD RECOMMENDATION

At its Full Board meeting on June 18, 2019, Manhattan Community Board 11 (CB11) passed a resolution recommending approval of the applications to amend the zoning map and zoning text (190158 ZMM and 190156 ZRM) by a vote of 32 in favor, 2 opposed, 6 abstaining, and 1 present but not voting. In its resolution, the members of CB11 recommended that a local nonprofit developer be used for the project.

BOROUGH PRESIDENT'S COMMENTS

As our aging population continues to increase, institutions like Terence Cardinal Cooke will become more essential to the long-term social and economic stability of our city. Terence Cardinal Cooke Health Care Center (TCC) has been an invaluable provider of health care, senior care, and nursing home services since 1978. They have proven their ability to provide premium

care to seniors as well as other patients with special needs. East Harlem residents make up half of their clients as well as approximately 350 members of their staff. These figures demonstrate TCC's service to the neighborhood, their commitment to servicing the low-income population in the area, as well as their impact on local employment. A project like the one proposed will ensure TCC's ability to continue providing care well into the future. Therefore, I recommend support of the proposed project and the associated land use applications.

This application comes at a time when it is clear that TCC's programs have outgrown their facilities. The Flower Building, which was completed in 1938, is in need of extensive upgrades to modernize its accommodations, service areas, and infrastructure. TCC has noted that these improvements include the replacement and renovation of the Flower Building's roof, lobby areas, outdated kitchen equipment, and floor plan.

There are very few instances where I am in support of new, mostly market-rate, residential development. The project would have to create some other benefit that heavily outweighs the negative impact of market-rate housing in gentrifying neighborhoods like East Harlem. The project proposed by TCC falls within that unique class of projects where the community benefit greatly outweighs potential detrimental effects. Their plans to sell a portion of its property for the development of a residential tower is intended to create a state of the art medical facility and 150 supportive, affordable units for senior residents. A significant portion of the population they serve and employ are East Harlem residents. In this instance, the number of market-rate residential units expected to be produced is justified.

The requested rezoning to an R8 zoning district also follows sound planning rationale. As previously noted, the area is rich in transportation options; the Proposed Project is located between two wide streets (Fifth Avenue and Madison Avenue) which have already been rezoned, as part of the 2017 East Harlem Rezoning, to facilitate high-density development; and there is minimal threat to neighborhood context since this area of East Harlem is already home to several buildings that are 20-stories or more.

Upon initial review of this application I had concerns that have since been assuaged. My initial concern related to the scale of the development and the timeline for demolition and construction. The proposal calls for phased demolition and construction over an entire city block. This generally creates significant adverse effects on air, noise, and general quality of life. According to the EAS, an E-designation for hazardous material, noise, and air quality will be incorporated into the proposed actions, and an independent environmental monitor will be required during the development of the proposed project pursuant to a restrictive declaration.¹

Another issue was the potential impact of shadows on open space. The Project Site is across the street from Central Park's Conservatory Garden as well as open space related to NYCHA's Carver Houses. The prospect of a 32-story tower casting shadows for prolonged periods of time was disconcerting. However, both sites are located to the east and west of the proposed residential development's location. As such, the EAS concluded, that shadows expected to be

¹ According to the Office of Environmental Remediation website, an E-Designation, "is a NYC zoning map designation that indicates the presence of an environmental requirement pertaining to potential Hazardous Materials Contamination, Window/Wall Noise Attenuation, or Air Quality impacts on a particular tax lot. E-Designations are established on the Zoning Map by the Department of City Planning (DCP) and City Council as a part of a zoning action."

produced by the proposed residential development will not significantly affect the enjoyment of these neighborhood assets.

The proposed rezoning mirrors the recommendation contained in the East Harlem Neighborhood Plan (“EHNP”)’s Zoning and Land Use Recommendation 2.4, as well as The Department of City Planning’s initial intention to rezone Madison Avenue between 102nd and 106th Streets as part of the East Harlem Rezoning. After reviewing comments submitted during community visioning workshops, the East Harlem Neighborhood Plan Steering Committee identified that area as appropriate for increased density, and it highlighted TCC as a private property that could receive a residential density increase in exchange for affordable housing². The rezoning is consistent with the surrounding built context and I believe that conditions are suitable for the requested and long-awaited area rezoning and text amendment.

My recommendation is that ArchCare adhere to the requests made by Community Board 11 which include: the hiring of a local nonprofit developer; meeting the long-established local hiring guidelines for the rehab and renovation of the Flower Building; and constructing of the senior supportive housing.³ In addition, a nonprofit developer should be given a significant equity stake in the market-rate residential development through covenant or other mechanism.

BOROUGH PRESIDENT’S RECOMMENDATION

Therefore, the Manhattan Borough President recommends **Approval** of Land Use Applications N 190156 ZRM and C 190158ZMM.



Gale A. Brewer
Manhattan Borough President

² East Harlem Neighborhood Plan, East Harlem Steering Committee, Pg. 101 (2016). Retrieved from https://www.eastharlempian.nyc/EHNP_FINAL_FINAL_LORES.pdf

³ In a letter to the City Council Speaker Christine Quinn in 2013, CB11 stated local hiring targets for all development projects in the district as follows: 35% for pre-construction jobs, 35% for construction jobs, 50% for post-construction hiring, 35% of the total value of all contracts being awarded to locals businesses.