

**ULURP Application #200029ZMK & #N200030ZRK –**

The applicant, 737 4th Avenue LLC, seeks a zoning map amendment that would affect a portion of Brooklyn Block 652 in the Greenwood Heights neighborhood of Brooklyn Community District (CD) 7 to establish the proposed rezoning area as Mandatory Inclusionary Housing (MIH) area subject to the affordability requirements of Option 1 of the MIH program. The proposed zoning map amendment would change the zoning of the Project Area from M1-1D to R8A. In addition, a C2-4 commercial overlay would be mapped to a depth of 100 feet along the southwest side of Fourth Avenue between 24th & 25th Streets.

1. The following members of the development team were present during the Committee Meeting:

Vivian Liao – Totem  
Elizabeth Canela - Totem  
Tucker Reed - Totem  
Jay Marcus – Fifth Avenue Committee  
Aaron Shiffman – Brooklyn Workforce Innovations  
Rohan Defreitas – Crescent Companies  
Shabazz Stewart - Oonepod  
Eric Palantik – Eric Palatnik PC  
Bhaskar Srivastava - Dencityworks

2. Two informational meetings via Zoom have been previously held to discuss this application on August 4 and October 5, 2020.:
3. A Public Hearing was held on November 12, 2020 via Zoom. Approximately 150 persons signed on during this meeting, of which 50 persons gave testimony.
4. The Land Use Committee met on November 16, 2020 to discuss the application. 12 members of the Land Use Committee were present with several other members of the Community Board also participating.
5. Borough President Eric Adams will hold its Public Hearing on November 30, 2020 via Webex.

The Land Use Committee discussed the application:

1. It is the committee chair's intent to encourage an honest debate on the proposal, in order to take a deep hard look at its benefits and constraints. As the committee is the first to review the application, it is important to understand the opportunities and impacts on the community.
2. CB7's 2019 Housing Report by NYU Wagner noted that it was important to direct efforts to provide affordable housing to lower-income families in the district, whose family size and immigrant status restrict their access to market rate apartments. Over the past 10 years, the Board has encouraged developers to provide deep permanent affordability in keeping with Sunset Park income levels.
3. Most importantly, preservation of existing affordable units is critical. Over the next decade, the community may lose 40% of units subsidized via Section 8 if owners opt out of the program. By 2040, 68% units are at risk. Preservation of these units is the most important to maintaining affordability for over 5,000 current families in the district.
4. The Mandatory Inclusionary Housing program, instituted in 2016, requires lots that are seeking rezoning from manufacturing to residential use to include units that are income-restricted to family households that meet certain Area Median Income (AMI) ranges. The developer has offered to

comply with MIH Option 1, which targets a blend of incomes to reach a 60% AMI range. The developer has also responded to the Board's request that they provide units affordable to families in the 30-40% AMI range.

5. Several community members feel that the MIH program has not been effective at providing affordable units citywide, and the regulatory tradeoff of granting the rezoning favors oversupply of market rate units for very small number of affordable units. This program is not suitable to meeting the needs of the Sunset Park community, where the overwhelming need is for housing units affordable to those households whose income levels are in the 10-40% AMI range. Also, the federally set AMI ranges skew higher than what families in Sunset Park receive in income since the ranges include higher income areas such as Westchester and Long Island. Several community members are advocating for provision of 100% affordable housing on the project site and no market-rate units.
6. Several community members are concerned that the influx of 100 market-rate units into the Sunset Park housing market will raise rents on units nearby, causing displacement of lower income families that can ill afford to find similarly affordable housing units in the district. The concern extends to possibly impacting racial and ethnic communities, and this should have been studied as part of the Environmental Impact Statement filed for the project.
7. A few board members believe a comprehensive planning study regarding affordable housing in CB7 should be undertaken, with a focus on the Sunset Park neighborhood in particular. Some members believe that a more ambitious plan that changes current funding constraints would be more useful to bringing about a solution to the housing crisis. Acquiring closed hotel properties, a community land trust, 100% affordable housing developments like the ones FAC is building at 50<sup>th</sup> and 61<sup>st</sup> Streets are preferred strategies that should be studied.
8. Several board members noted that the Housing Connect Lottery, which is the means by which families are selected to occupy the affordable units is already oversubscribed, with tens of thousands of families citywide competing for one affordable unit. Although CB7 families get preferential treatment for half of the affordable units, significant assistance is needed by these families to work through the onerous application and financial requirements just to be considered. The developer has retained Fifth Avenue Committee to administrate the affordable housing component and they are committed to working with the Board to extend outreach efforts to the CB7 community. There are also set asides of 5% of the units for disabled families and 10% for city employees.
9. The developer stated that they are committing to keeping the income bands for the development no higher than 60% AMI and will include a range of AMI's from 30-60%. They state that very few private developers will voluntarily go down to 30% AMI. For example, the unit rents will be calculated so that no more than 30% of income will go to housing cost. For 1 BR units, the rents will range from \$503-\$1,143 depending on AMI band. Research in the neighborhood is showing market rate rents in the 1-2 BR range as \$1500-\$2200. The developer maintains that the market rents will be priced in keeping with neighborhood leasing, most likely falling within income bands of 80-120% AMI.
10. A few board members stated that it was unreasonable to expect the crisis to be solved unless new units were constructed and built. It was noted that Sunset Park has seen a large increase in population over the past 10 years, while the number of housing units has dropped. The board members recognized Totem for trying to find ways to meet the Board's concerns. They also noted that the community would be better served if the land's current use were residential than retail and a parking lot.
11. The developer stated that the biggest constraint against 100% affordable housing units on the site is land costs in Sunset Park have risen beyond the point where the city would provide any subsidy to create affordable units. They state that HPD will only consider 100% subsidies if the land were priced at \$40/sf, not the \$400/sf the developer paid for the land. FAC noted that their Library and Church developments were enabled by free or nearly free land, however, even those projects still required Councilmember Menchaca and Borough President Adams contributions to

make the proformas work. There is some hope that the new Biden administration and Congress may enable \$100B in funding for housing, but it is expected that money will be directed to public housing agencies such as NYCHA, rather than developments like this one.

12. How is long term affordability guaranteed? The developer said the rent rolls are a contract agreement with NYC Housing Preservation and Development who oversees the program for the city. FAC will submit rent data to HPD who has the right to review the data up to four times a year in order to ensure accountability to permanent affordability.
13. Will the units be accessible? Per ADA, the entire building will be accessible to the unit's entry door. 5% of the units will receive accessibility features for mobility impaired residents and 2% will be accessible to those with visual or auditory disabilities. If a unit needs to be adapted to be accessible for a particular resident, the unit can be converted within 10 days using hand tools. As such, most of the infrastructure that is required to support accessibility will be designed into the building from the beginning, allowing for quick adaptation of the unit for disabled use.
14. It was noted by the developer that Fair Housing Rules prohibit segregating the accessible units for only CB7 residents, however, FAC has experience in outreach to the disabled community and will try to encourage those in the district to apply for the units.
15. The developer states that although the project is located in an Opportunity Zone, no funding was used to purchase the land therefore no benefits will accrue to the developer. Also, no EB5 funding is being used for the project.
16. After the meeting, the developer responded regarding a question about SCRIE/DRIE programs. "Affordable apartments in an MIH project are eligible for SCRIE/DRIE (if the household earns less than \$50,000/year and if they pay over 30% of their income to rent). Unfortunately, it only applies to rent restricted (rent stabilized/rent controlled) apartments so the market units would not be eligible. If any tenant becomes rent burdened (eg. They retire and income decreases) our Community Services department would assist in applying for SCRIE/DRIE."
17. After the meeting, the developer sent the following statement addressing climate and energy goals for the project:
  - "On Local Law 97, the building will be designed to comply beyond the 2030 threshold for greenhouse emissions. As we understand it, currently most buildings are complying through 2024 limits."
  - "The building will be LEED certified, making it one of the first LEED certified residential buildings in Sunset Park. It will be 10% more energy efficient than NYC Code through sustainable site development, green roofs, among others."
  - "The City's Housing Preservation and Development agency (HPD) will require the building to comply with Enterprise Green Communities ensuring higher quality finishes and mechanical systems that lead to a more energy efficient building. It will require an integrated design, energy efficiency through Energy Star appliances, broadband connectivity, and healthy finishes and materials. "
  - "Beyond the Enterprise Green Communities Certification, we will be abiding by the National Green Building Standard which upholds the standards created by the Enterprise Green Communities and takes it a step further with compliance by reinforcing materials through third party certification of the interiors."
  - "On the very important question on stormwater management and bioswales, we've checked in once again with the MTA and DOT and although these measures require additional approval processes at the agencies to ensure compliance, we remain committed to following through on this approach pending final MTA approval."
  - "Regarding rain water retention, we believe that by removing a single parking space in the cellar level and replacing it with a retention tank in the cellar we will be able to comply with the city effluent limits, and alleviate significant storm water run off in the area. We hope that this added measure, when combined with the the building's rainwater retention systems

through green roofs and roof ponds, which will each retain 2 inches of water on their own, we should be able to alleviate any further significant flooding issues around our site and set a high standard to point to for storm water retention in the neighborhood.”

The Land Use Committee then discussed conditions to add to its determination

1. We urge the developer to demonstrate its commitment to the affordable housing needs of the Sunset Park community by providing affordable tiers and numbers of units that directly address household incomes in CB7. In particular, providing units that meet deep affordability goals beyond those stated in MIH Option 1, with an income tier that reaches down to at least 30% AMI.
2. The developer shall start work with its affordable housing administrative partner, Fifth Avenue Committee, as soon as possible to outreach, encourage and guide CB7 residents to submit to the Housing Connect lottery so that half of the proposed affordable unit count will be filled by CB7 residents. Outreach efforts will be conducted in all four primary languages of the district.
3. Of the number of affordable units provided, larger units for families comprising 2 or 3 BR shall be part of the count.
4. The developer shall make a good faith commitment to include minority and women-owned business participation as part of construction, supply and maintenance operations, with special preference for local businesses within CB7 boundaries.
5. The developer shall commit to local hiring initiatives for construction jobs and apprenticeship programs to create pathways to employment for local residents in the construction industry.
6. The developer shall commit to utilizing universal and inclusive design principles and shall ensure full accessibility and accommodations to senior and persons with mobility, vision or hearing impairments. The developer will further commit to providing readily accessible units and units quickly adaptable to particular disabled person's need, such as roll-in showers. The unit count for disabled families will be proportional to the CB7 preferential set asides.
7. The developer shall commit to incorporating sustainable design practices and responsible landscape design, including bioswales, landscape water management, reduced storm water outflow and green infrastructure improvements. The committee would like the developer to commit to and sustain a vegetative green roof to help reduce urban heat island effects. The developer shall comply with Energy Efficiency Local Laws, in particular Local Law 97 in its entirety, adhering to the 2030 requirements as soon as the building receives its TCO.
8. The developer shall commit to leasing its ground floor retail space to neighborhood retail use, not to formula retail or chain store tenants. Further, the retail use will incorporate transparency into the storefront and will not utilize exterior mounted security grilles.
9. The developer will commit in writing not to flip the development to homeless shelter occupancy during construction or at completion of project.

For further consideration, the Land Use Committee will begin a comprehensive study for an affordable housing plan for Sunset Park, building on recent data and strategies discussed over the past year. We urge the Department of City Planning and Housing and Preservation Development to assist in this effort.

Of the two land use actions required for this rezoning, the Land Use Committee recommends to the Board the following

The Committee voted to APPROVE with conditions as listed above. 12 Committee members were present and the vote was 7-5 in favor of approval.