CITY PLANNING COMMISSION
CITY OF NEW YORK

OFFICE OF THE CHAIR

NEGATIVE DECLARATION

January 2, 2018

Project Identification
CEQR No. 17DCP203M
ULURP Nos. 170380ZMM & N170381ZRM
SEQRA Classification: Unlisted

Lead Agency
City Planning Commission
120 Broadway, 31st Floor
New York, NY 10271
Contact: Robert Dobruskin
(212) 720-3423

Name, Description and Location of Proposal:

East 33rd Street Rezoning

The Applicant, 33rd Street Acquisition LLC, seeks a Zoning Map Amendment to rezone the northern mid-block portion of East 33rd Street between First and Second Avenues from an R8A residential district to a C1-9A commercial district. The Applicant also seeks a Zoning Text Amendment pursuant to Appendix F of the New York City Zoning Resolution (ZR) to establish a Mandatory Inclusionary Housing (MIH) area coterminous with the Rezoning Area (Lots 20-27 and a portion of Lot 28). The two actions, collectively the "Proposed Actions", would facilitate a proposal by the Applicant to develop a 23-story mixed-use building (the "Proposed Development") on a property located at 339-345 East 33rd Street in the Kips Bay neighborhood of Manhattan Community District (CD) 6. The Proposed Development would occur on four lots (Block 939, Lots 24, 25, 26, and 27), rise to 230 feet in height, and utilize the development rights from an adjacent lot within the Rezoning Area. The Proposed Development would contain approximately 131,807 gsf of residential floor area over 155 Dwelling Units (DUs) of which up to 40 would be affordable pursuant to MIH and 10,743 gross square feet (gsf) of local retail floor area.

The buildings located within the Rezoning Area (on Lots 20-27) are four to five stories tall and would thus generate additional development rights if they were rezoned. The Proposed Development would incorporate some of these development rights (16,453 gsf of development rights from adjacent Lot 23). To facilitate construction of the Proposed Development the four buildings currently located on Lots 24, 25, 26, and 27 (which contain 40 dwelling units) would be demolished and Lot 23 would be merged into the Proposed Development's zoning lot. If the Rezoning Area was not rezoned it is anticipated that the Rezoning Area would remain in its current

condition. For conservative analysis purposes, an additional scenario was identified if the Rezoning Area was not rezoned where a residential building could be built under the existing R8A zoning. Lots 24, 25, 26, and 27 on Block 939 would be developed with a new residential building pursuant to the existing R8A zoning regulations. The existing development rights from Lot 23 would be transferred to the proposed R8A building (approximately 4,643 sf). This could permit the as-of-right development of a 12-story, 120-foot tall building with approximately 61,000 gsf of residential floor area (72 market rate DUs).

For the purposes of presenting a conservative analysis, the Reasonable Worst Case Development Scenario (RWCDS) identifies a With-Action scenario that has more floor area than the Applicant's Proposed Development. The building developed on Lots 24, 25, 26 and 27 would be the same height as the Applicant's proposed building but be wider to incorporate the additional development rights from all of the lots in the Rezoning Area. To maximize the development rights transferred from Lots 20-22, a 20 foot cantilever over the entire area of Lot 23 would be necessary. An easement would be required to permit the cantilever over Lot 23. The mixed-use building (230 feet in height) would include 158,509 gsf of residential uses (186 DUs of which 37 would be affordable pursuant to MIH) and 10,743 gsf of local retail uses.

The analysis year for the environmental review is 2020.

To avoid any potential impacts associated with hazardous materials, air quality, and noise an **(E) designation** (E-458) would apply to the following sites:

Block 939, Lots 24, 25, 26, and 27

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

Task 1: Sampling Protocol

Prior to construction, the applicant must submit to the New York City Mayor's Office of Environmental Remediation (OER), for review and approval, a Phase II Investigation protocol, including a description of methods and a site map with all sampling locations clearly and precisely represented. No sampling should begin until written approval of a protocol is received by OER. The number and location of sample sites should be selected to adequately characterize the site, the specific source 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 the 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 for the test results, a proposed remedial action plan (RAP) must be submitted by 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. An OER-approved construction-related health and safety plan (CHASP) would be implemented during excavation and construction activities to protect workers and the community from potentially significant adverse impacts associated with contaminated soil and/or groundwater. This plan would be submitted to OER for review and approval prior to implementation.

The text for the (E) designations related to air quality is as follows:

Any new residential/commercial development on the above referenced property ensure that the HVAC stack is located at the highest tier or at least 233 feet above grade to avoid any potential significant adverse air quality impacts

The text for the (E) designations related to noise is as follows:

To ensure an acceptable interior noise environment, future residential/commercial development must provide a closed window condition with a minimum of 31 dBA window/wall attenuation on all facades in order to maintain an interior noise level of 45 dBA. 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.

Supporting Statement:

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

1. The (E) designation (E-458) would ensure that the Proposed Actions would not result in significant adverse impacts related to hazardous materials and air quality.

2. No other significant effects on the environment which would require an Environmental Impact Statement are foreseeable.

3. The EAS includes a detailed shadow analysis which concludes that the Proposed Actions would not result in significant adverse shadow impacts. However, the Proposed Actions would result in limited incremental shadows on one sunlight-sensitive resource: Joseph Slifka Park. These project-generated shadows would be limited in duration and coverage, and would not affect the utilization or enjoyment of this open space resource. Additionally, the vegetation of the open space would continue to receive adequate sunlight throughout the growing season. No impacts to any sunlight sensitive resources are anticipated as a result of the Proposed Actions.

4. The EAS includes a detailed Urban Design and Visual Resources analysis which concludes that the Proposed Actions would not result in significant adverse Urban Design impacts. The Proposed Actions would not affect the current mix of zoning districts and established development pattern that characterizes the neighborhood surrounding the Rezoning Area. The Proposed Actions would not alter any street pattern or block formation or otherwise result in physical changes to the streets in the secondary study area; nor would the Proposed Actions have any effect on significant built or natural features contributing to the urban design of the secondary study area. Further, the Proposed Actions would result in no substantial change to any visual resource, nor would the Proposed Actions result in any substantial change to view corridors identified within the study area.

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 December 21, 2017, prepared in connection with the ULURP Application (Nos. 170380ZMM & N170381ZRM). The City Planning Commission has determined that the Proposed Actions will have no significant effect on the quality of the environment.

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 Kevin Corté of the Department of City Planning at (212) 720-3250

Robert Dobruskin

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

Date: December 22, 2017

Marisa Lago

Marisa Lago, Chair
City Planning Commission

Date: January 2, 2018