



Legislation Text

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THE COUNCIL OF THE CITY OF NEW YORK RESOLUTION NO. 1384

Resolution approving the application submitted by the New York City Department of Housing Preservation and Development and the decision of the City Planning Commission, ULURP No. C 170051 HAM, approving the designation of property located at 407-415 Lenox Avenue (Block 1915, Lots 32, 33, 34, 35, and 36), Borough of Manhattan, as an Urban Development Action Area, approving an Urban Development Action Area Project, and approving the disposition of city-owned property located 407-415 Lenox Avenue (Block 1915, Lots 32, 33, 34, 35, and 36), to a developer selected by HPD (L.U. No. 562; C 170051 HAM).

By Council Members Greenfield and Cohen

WHEREAS, the City Planning Commission filed with the Council on February 1, 2017 its decision dated February 1, 2017 (the "Decision"), on the application submitted by the New York City Department of Housing Preservation and Development ("HPD") pursuant to Section 197-c of the New York City Charter and Article 16 of the General Municipal Law of New York State regarding:

- a) the designation of property located at 407-415 Lenox Avenue (Block 1915, Lots 32, 33, and 36), as an Urban Development Action Area (the "Project Area");
- b) an Urban Development Action Area Project for the Area (the "Project"); and
- c) pursuant to Section 197-c of the New York City Charter for the disposition of city-owned property located at 407-415 Lenox Avenue (Block 1915, Lots 32, 33, and 36), to a developer to be selected by HPD,

to facilitate a ten-story mixed-use building containing approximately 72,000 square feet of residential floor area, approximately 7,5000 square feet of ground floor retail and approximately 2,400 square feet of community facility space, Community District 10, Borough of Manhattan (ULURP No. C 170051 HAM) (the "Application");

WHEREAS, the Application is related to applications C 170050 ZMM (L.U. No. 561), a zoning map amendment to modify the depth of an existing R7-2/C2-4 district and to change an existing R7-2 district to an R8A district; and N 170052 ZRM (L.U. No. 563), a zoning text amendment to designate a Mandatory Inclusionary Housing Area;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, the Application and Decision are subject to review and action by the Council pursuant to

Article 16 of the General Municipal Law of New York State;

WHEREAS, by letter dated January 23, 2017 and submitted to the Council on February 1, 2017, HPD submitted its requests (the “HPD Requests”) respecting the Application including a project summary (the “Project Summary”), and a request for approval of a real property tax exemption pursuant to Article XI of the Private Housing Finance Law (the “Exemption”) for the Project Area and adjacent privately-owned property (Block 1915, Lots 34 and 35) (the Project Area together with the privately-owned property, the “Exemption Area”);

WHEREAS, upon due notice, the Council held a public hearing on the Application and Decision on February 7, 2017;

WHEREAS, the Council has considered the land use and financial implications and other policy issues relating to the Application;

WHEREAS, the Council has considered the relevant environmental issues, including the revised negative declaration issued September 2, 2016 (CEQR No. 16HPD078M) (the “Revised Negative Declaration”);

RESOLVED:

The Council finds that the action described herein will have no significant effect on the environment as set forth in the Revised Negative Declaration.

Pursuant to Section 197-d of the New York City Charter, based on the environmental determination and the consideration described in the report (C 170051 HAM) and incorporated by reference herein, the Council approves the Decision of the City Planning Commission and the HPD Requests.

The Council finds that the present status of the Project Area tends to impair or arrest the sound growth and development of the City of New York and that a designation of the Project as an urban development action area project is consistent with the policy and purposes stated in Section 691 of the General Municipal Law.

The Council approves the designation of the Project Area as an urban development action area pursuant to Section 693 of the General Municipal Law.

The Council approves the Project as an urban development action area project pursuant to Section 694 of the General Municipal Law.

The Council approves the disposition of 407-415 Lenox Avenue (Block 1915, Lots 32, 33, and 36), to a developer selected by the New York City Department of Housing Preservation and Development pursuant to Section 197-d of the New York City Charter.

The Project shall be developed in a manner consistent with the Project Summary submitted by HPD on February 1, 2017, a copy of which is attached hereto and made a part hereof.

The Council approves an Article XI tax exemption for the Exemption Area pursuant to Section 577 of the Private Housing Finance Law as follows:

1. For the purposes hereof, the following terms shall have the following meanings:
 - a) “Effective Date” shall mean the later of (i) the date of conveyance of the Exemption Area to the HDFC, and (ii) the date that HPD, HDC and the New Owner enter into the Regulatory Agreement in their respective sole discretion.
 - b) “Exemption” shall mean the exemption from real property taxation provided hereunder.
 - c) “Exemption Area” shall mean the real property located on the Tax Map of the City of New York in the Borough of Manhattan, City and State of New York, identified as Block 1915, Lots 32, 33, 34, 35, 36.
 - d) “Expiration Date” shall mean the earlier to occur of (i) a date which is forty (40) years from the Effective Date, (ii) the date of the expiration or termination of the Regulatory Agreement, or (iii) the date upon which the Exemption Area ceases to be owned or leased by either a housing development fund company or an entity wholly controlled by a housing development fund company.
 - e) “HDC” shall mean New York City Housing Development Corporation.
 - f) “HDFC” shall mean HP MJM Housing Development Fund Company, Inc.
 - g) “HPD” shall mean the Department of Housing Preservation and Development of the City of New York.
 - h) “LLCs” shall mean 407 Lenox Avenue, LLC and 407 Lenox LIHTC Owner LLC or affiliates.
 - i) “New Owner” shall mean the HDFC and the LLCs or any future owner of the Exemption Area.
 - j) “Regulatory Agreement” shall mean the regulatory agreement between HPD, HDC and the New Owner establishing certain controls upon the operation of the Exemption Area during the term of the Exemption.
2. All of the value of the property in the Exemption Area, including both the land and any improvements (excluding those portions, if any devoted to business, commercial use, or community facility use, except for such community facility use required by and on the terms set forth in the Regulatory Agreement) shall be exempt from real property taxation, other than assessments for local improvements, for a period commencing upon the Effective Date and terminating upon Expiration Date.
3.
 - (a) Notwithstanding any provision hereof to the contrary, the exemption from real property taxation provided hereunder (“Exemption”) shall terminate if HPD determines at any time that (i) the Exemption Area is not being operated in accordance with the requirements of Article XI of the Private Housing Finance Law, (ii) the Exemption Area is not being operated in accordance with the requirements of the Regulatory Agreement, (iii) the Exemption Area is not operated in accordance with the requirements of any other agreement with, or for the benefit of, the City of New York, (iv) the Exemption Area is conveyed to a new owner without the prior written consent of HPD, or (v) the demolition or construction of any private or multiple dwelling on the Exemption Area has commenced without the prior written consent of HPD. HPD shall deliver written notice of any such determination to the New Owner and all mortgagees of record, which notice shall provide for an

opportunity to cure of not less than sixty (60) days. If the noncompliance specified in such notice is not cured within the time period specified therein, the Exemption shall prospectively terminate.

- (b) Nothing herein shall entitle the New Owner to a refund of any real property taxes which accrued and were paid with respect to the Exemption Area prior to the Effective Date.
- (c) The Exemption shall not apply to any building constructed on the Exemption Area which does not have a permanent or temporary certificate of occupancy by December 31, 2022, as such date may be extended in writing by HPD.

4. In consideration of the Exemption, the New Owner (i) shall execute and record the Regulatory Agreement, and (ii) for so long as the Exemption shall remain in effect, shall waive the benefits of any additional or concurrent exemption from or abatement of real property taxation which may be authorized under any existing or future local, state, or federal law, rule, or regulation.

Adopted.

Office of the City Clerk, }
The City of New York, } ss.:

I hereby certify that the foregoing is a true copy of a Resolution passed by The Council of The City of New York on February 15, 2017, on file in this office.

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City Clerk, Clerk of The Council