

MANHATTAN COMMUNITY BOARD FIVE

Vikki Barbero, Chair

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Wally Rubin, District Manager

June 15, 2018

Hon. Marisa Lago
Chair of the City Planning Commission
22 Reade Street
New York, NY 10007

Re: **110 East 16th Street, application requesting special permits to (i) modify allowable bulk regulations to facilitate construction of a new mixed-use building, and to (ii) allow an automated accessory parking facility with a maximum of 23 spaces at the cellar level of the proposed building**

Dear Chair Lago:

At the regularly scheduled monthly Community Board Five meeting on Thursday, June 14, 2018, the following resolution passed with a vote of 36 in favor; 1 opposed; 2 abstaining:

WHEREAS, Tishman Real Estate (“The Applicant”) has submitted an application to build a proposed 21-story mixed-use building containing 40-55 market rate residential units located at 110 E. 16th Street (the “Development Site”), between Union Square East and Irving Place and requests two zoning special permits: 1) A special permit pursuant to Section 74-711 of the ZR of NYC to modify height, setback and side yard regulations and the minimum distance between buildings at the Development Site to facilitate construction of the proposed development in conjunction with the establishment of a program for continuing maintenance of the Century Association Building, a landmarked building (the “Landmark Special Permit”) and 2) A special permit pursuant to Section 13-451 of the Zoning Resolution of NYC to allow 23 accessory parking spaces in a new parking garage (the “Proposed Accessory Garage”) at the Development Site to accommodate residential growth (the ”Parking Special Permit”). The requested 23 parking spaces will be strictly limited to use by the residents of the Project Development only and will not be available to the public; and

WHEREAS, The Development Site and the landmarked building are currently on one zoning lot (the “Base Zoning Lot”); and

WHEREAS, The Applicant intends to enlarge the Base Zoning Lot (as enlarged, the “Project Area”) pursuant to an as-of-right lot merger to include 113-115 East 15th Street, the Lee Strasberg Theater and Film Institute, to facilitate the proposed development, from which unused FAR has been purchased and will be added to the as-of -right FAR for the 110 East 16th Street lot; and

WHEREAS, The merged lots create a zoning lot size of 16,986 SF; and

WHEREAS, The Project Area is zoned C6-2A; and

WHEREAS, FAR is defined as the ratio of building area to the site area, which means that if a site is 10,000 sf, with an FAR of 10, then you can build 10 times the site area or 100,000 sf; and

WHEREAS, The maximum floor area ratio (“FAR”) permitted at the Project Area is 6.5, the Maximum residential FAR permitted is 6.02, the maximum commercial FAR permitted is 6.0 and the Maximum community facility FAR permitted is 6.5; and

WHEREAS, Up to 110,409 sf of floor area is permitted, up to 102,409 sf of residential floor area is permitted, up to 101,916 sf of commercial floor area is permitted and up to 110,409 sf of community facility floor area is permitted as-of right; and

WHEREAS, The proposed development total floor area including existing buildings to remain will be 110,409 sf; existing building to remain will be 30,587 sf; proposed new building will be 79,822 sf; residential floor area of new building will be 76,822 sf, Commercial floor area of new building will be 2,310 sf, and Community Facility floor area will be 690 sf; and

WHEREAS, 58,022 sf of the 79,822 sf of the proposed new building is not as-of-right, which is 73% of the building’s total floor area; and

WHEREAS, The Applicant is requesting a special permit to modify height, setback, and side yard regulations Per Section 74-711 of the NYC Zoning Resolution; and

WHEREAS, Among other requirements, for the city to approve the special permit as put forth, the city must find that "such #bulk# modifications shall have minimal adverse effects on the structures or #open space# in the vicinity in terms of scale, location and access to light and air"; and

WHEREAS, The C6-2A zone has a minimum base height of 60 feet and a maximum base height of 85 feet, above which a 15 foot setback is required specifically along narrow streets such as E. 16th Street to allow sunlight to reach the sidewalk and to avoid the creation of a dark canyon-like street; and

WHEREAS, The C6-2A zone has a maximum building height of 120 ft, the proposed development is 283 feet which is 2.4 times taller than permitted in this zone; and

WHEREAS, The proposed development is 283 feet high with a Base height of 230 feet for 19 stories, 3.8 times higher than the minimum as of right height of 60 feet and 2.7 times higher than the maximum as of right height of 85 feet before the required front façade setback of 15 feet; and

WHEREAS, The zoning district requires a 15 foot front façade setback above 85 feet, the proposed development has no setback below 230 feet and only a 2 foot 5 inch setback per floor above the 230 foot height which means that 145 feet of the front building façade extends over the sidewalk 160% over the setback required for this zone; and

WHEREAS, The total 283 foot height of the proposed development is 283 feet with a minimally progressive setback at each floor of only 2 feet 5 inches meaning that the 19th floor is set back 2 feet 5 inches and the 20th floor is setback 4 feet 11 inches and the 21st floor is set back 7 feet 5 inches; and

WHEREAS, The 2 feet 5 inches setbacks at the side yards from the 19th to 21st floor is not allowed as-of-right per ZR 35-52, “if any open area extending along a side lot line is provided at any level, it shall have a width of not less than eight feet”; and

WHEREAS, The proposed building is required to provide a rear yard setback of 50 feet from the existing commercial building; and

WHEREAS, The Applicant is requesting a 60% reduction of the Rear Yard requirement, reducing it from 50 feet to 30 feet which will significantly reduce the amount of light and fresh air supply available at the rear of the proposed building, as well as for all the other buildings in this block; and

WHEREAS, The permitted as-of-right off-street parking is 8-11 spaces and the proposed accessory parking facility shall contain a maximum of 23 parking spaces, which is 42-57% of the planned residential units; and

WHEREAS, The Department of City Planning has issued guidance that the target quantity of parking spaces in this area is 20% of available and planned residential units; and

WHEREAS, The Department of City Planning provides specific guidance on the method to calculate parking as a percent of residential units; and

WHEREAS, Previous public parking garage located on premises contained 196 parking spaces; and

WHEREAS, The proposed development site is 200 feet west of Union Square, an area that provides 8 subway lines and 5 bus lines; and

WHEREAS, The project development is considering LEED Silver or Gold, and CB5 recommends LEED Gold or Platinum and building systems that maximize the use of durable passive systems; and

WHEREAS, The residents of the neighborhood are concerned with the weekend construction currently permitted for the renovation of Washington Irving High School on the same street and ask that the City does not approve weekend construction hours for this project; and

WHEREAS, The application includes a restoration plan for the landmark owned by Trinity Christian Center of Santa Ana, Inc., currently valued at \$2 million; and

WHEREAS, The development will cast shadows on light-sensitive resources, including Gramercy Park, Union Square Park, Park Avenue Mall and a number of landmarked buildings but because of the spot-zoning nature of the proposed development, according to the antiquated CERQ technical manual, it does not reach any threshold requiring mitigation; and

WHEREAS, The environmental impact on Gramercy Park has not been assessed; and

WHEREAS, The zoned elementary school serving the proposed residential development is currently operating at 132% utilization rate and is among the most overcrowded elementary schools in Manhattan but because of the spot-zoning nature of the proposed development, according to the antiquated CERQ technical manual, it does not reach any threshold requiring mitigation; and

WHEREAS, One of the zoned middle schools serving the residential development and located in the immediate vicinity of the development is currently operating at 149% utilization rate and is among the most overcrowded middle schools in Manhattan but because of the spot-zoning nature of the proposed development, according to the antiquated CERQ technical manual, it does not reach any threshold requiring mitigation; and

WHEREAS, As The Applicant is asking for a waiver for the #bulk# modifications and not additional floor area, it claims that it does not automatically trigger MIH (Mandatory Inclusionary Housing) and all 40-55 proposed new units can therefore be rented/sold at market rate;

WHEREAS, The only "objectives" referenced in ZR Section 74-32 are set forth in ZR Section 23-92: "The Inclusionary Housing Program is established to promote the creation and preservation of housing for residents with varied incomes in redeveloping neighborhoods and to enhance neighborhood economic diversity and thus to promote the general welfare"; and

WHEREAS, ZR Section 74-32, entitled "Additional considerations for Special Permit Use and Bulk Modifications," reads: "Where a special permit application would allow a significant increase in #residential floor area# and the special #floor area# requirements in #Mandatory Inclusionary Housing areas# of paragraph (d) of Section 23-154 (Inclusionary Housing) are not otherwise applicable, the City Planning Commission, in establishing the appropriate terms and conditions for granting of such special permit, shall apply such requirements where consistent with the objectives of the Mandatory Inclusionary Housing program as set forth in Section 23-29 (General Provisions)"; and

WHEREAS, The Department of City Planning has defined a "significant increase" as 10 residential units or 12,500 sf of residential floor area; and

WHEREAS, Alterations to rear yard, height and setback, and street frontage requirements that the applicant is requesting would result in the creation of an additional 58,022 SF of residential floor area, far exceeding the “significant increase” threshold established in the zoning code; and

WHEREAS, This building would alter the character of the block significantly, and as Community Board Five believes that this application should have triggered MIH provisions for the creation of affordable housing, that the applicant commit to the creation of affordable housing elsewhere in the district that is equivalent to the number of units that would have been created as part of this development had MIH been triggered; and

WHEREAS, Although the applicant is reportedly working with Council Member Rivera to find a partnering developer and an affordable housing project within the district, no such commitment has been made of yet, and no reports of any progress to this end; and

WHEREAS, The applicant was to report to Community Board Five’s Land Use, Housing and Zoning Committee about a specific financial commitment they would make to a specific affordable housing project at another site located within the CB5 District by the June 6th committee meeting, but no affordable housing developer, no affordable housing project and no financial commitment was presented by the applicant at this meeting; therefore be it

RESOLVED, Community Board Five **recommends denial** of the application to build a proposed 21-story mixed-use building containing 40-55 market rate residential units located at 110 E. 16th Street, between Union Square East and Irving Place, and denial of two zoning special permits: 1) A special permit pursuant to Section 74-711 of the ZR of NYC to modify height, setback and side yard regulations and the minimum distance between buildings at the Development Site to facilitate construction of the proposed development in conjunction with the establishment of a program for continuing maintenance of the Century Association Building, a landmarked building (the “Landmark Special Permit”) and 2) A special permit pursuant to Section 13-451 of the Zoning Resolution of NYC to allow 23 accessory parking spaces in a new parking garage (the “Proposed Accessory Garage”) at the Development Site to accommodate residential growth (the ”Parking Special Permit”).

Thank you for the opportunity to comment on this matter.

Sincerely,



Vikki Barbero
Chair

Charles Jordan
Chair, Land Use, Housing & Zoning Committee