



CITY PLANNING COMMISSION

March 4, 2015 / Calendar No. 14

C 140408 ZSM

IN THE MATTER OF an application submitted by 1818 Nadlan LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-681 of the Zoning Resolution to allow that portion of the railroad or transit right-of-way which will be completely covered over by a permanent platform to be included in the lot area in connection with a proposed residential building with two 16-story segments, on property located at 505-513 West 43rd Street a.k.a. 506-512 West 44th Street (Block 1027, Lot 24), in an R9 District, within the Special Clinton District (Preservation Area), Borough of Manhattan, Community Board 4.

This application for a special permit was filed by 1818 Nadlan LLC on June 2, 2014 to facilitate the development of an approximately 149,614 square foot, 15-story residential building, with segments along both West 43rd and West 44rd streets, over an open rail cut in the Special Clinton District.

RELATED ACTIONS

In addition to the special permit which is the subject of this report, implementation of the proposed project also requires action by the City Planning Commission on the following applications, which are being considered concurrently with this application:

N 140407 ZRM

A proposed amendment to the Zoning Resolution to create a special permit in Section 96-32 (Special Regulations in R9 Districts) for the purposes of waiving the applicable height and setback regulations of Sections 23-633, rear yard regulations of Section 23-663, planting regulations of Section 23-892, and permitted obstruction within rear yard regulations of Section 23-44.

C 140409 ZSM

A proposed special permit pursuant to 96-32(c), special regulations in R9 districts to modify height, setback, planting and rear yard requirements.

BACKGROUND

A full background discussion and description of this application appears in the related report for a zoning text amendment application (C 140409 ZSM).

ENVIRONMENTAL REVIEW

This application (C 140409 ZSM) in conjunction with the applications for the related actions (N 140407 ZRM and C 140408 ZSM) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 14DCP183M. The lead is the City Planning Commission.

On February 17, 2015, a Revised Environmental Assessment Statement (EAS) was issued which describes and analyzes modifications to the Proposed Actions. The Revised EAS concluded that the proposed actions with modifications would not result in any new or different significant adverse environmental impacts not already identified in the previous Negative Declaration. A Revised Negative Declaration was issued on March 2, 2015, 2015. The Revised Negative Declaration reflects the modified application.

UNIFORM LAND USE REVIEW

This application, along with the related ULURP application (C 140409 ZSM), was certified as complete by the Department of City Planning on September 29, 2014, and duly referred to Manhattan Community Board 4 and the Manhattan Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b), along with the related non-ULURP

action (N 140407 ZRM), which was referred for information and review in accordance with the procedures for non-ULURP matters.

Community Board Public Hearing

Manhattan Community Board 4 held a public hearing on this and related actions on November 12, 2014 and, on December 3, 2014, by a vote of 35 in favor, 3 opposed, and none present but not eligible to vote, adopted a resolution recommending approval of the application with conditions.

A summary of the recommendations of Community Board 4 appears in the report on the related application for the other special permit (C 140409 ZSM).

Borough President Recommendation

This application and the related actions were considered by the Manhattan Borough President, who issued a recommendation on January 7, 2015, approving the application, with conditions.

A summary of the recommendations of the Borough President appears in the related report for a text amendment application (N 140409 ZRM).

City Planning Commission Public Hearing

On January 7, 2015 (Calendar No. 6) the City Planning Commission scheduled January 21, 2015 for a public hearing on this application (C 140408 ZRM). The hearing was duly held on January 21, 2015 (Calendar No. 30) in conjunction with the public hearings on the applications for the related actions (N 140407 ZRM and C 140409 ZSM).

There were a number of appearances, as described in the related report for a zoning text amendment (C 140409 ZSM) and the hearing was closed.

CONSIDERATION

The Commission believes that the grant of this special permit (C 140408 ZSM) is appropriate. A full consideration and analysis of the issues, and the reasons for approving this application appear in the report on the related application for the other special permit (C 140409 ZSM).

FINDINGS

The City Planning Commission hereby finds pursuant to Section 74-681 of the Zoning Resolution that the development may be located partially or entirely within a railroad right-of-way and that:

1. The streets providing access to all uses pursuant to paragraph (a) of Section 74-681 are adequate to handle traffic resulting therefrom; and
2. The distribution of floor area and the number of dwelling units or rooming units does not adversely affect the character of the surrounding area by being unduly concentrated in any portion of such development or enlargement, including any portion of the development or enlargement located beyond the boundaries of such railroad or transit right-of-way or yard; and
3. All uses, developments, or enlargements located on the zoning lot or below a platform do not adversely affect one another; and
4. If such railroad or transit right-of-way or yard is deemed appropriate for future transportation use, the site plan and structural design of the development does not preclude future use of, or improvements to, the right-of-way for such transportation use.

RESOLUTION

RESOLVED, that the City Planning Commission finds that the action described herein will have no significant impact on the environment; and be it further

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter that based on the environmental determination and the consideration described in this report, the application submitted by 1818 Nadlan, LLC, pursuant to Sections 197-c and

201 of the New York City Charter for the grant of a special permit pursuant to Section 74-681 of the Zoning Resolution to allow that portion of the railroad or transit right-of-way which will be completely covered over by a permanent platform to be included in the lot area in connection with a proposed residential building with two 15-story segments, on property located at 505-513 West 43rd Street a.k.a. 506-512 West 44th Street (Block 1027, Lot 24), in an R9 District, within the Special Clinton District (Other Area) within the Special Clinton District (Preservation Area), of Manhattan, Community District 4, as revised, is hereby approved, subject to the following terms and conditions:

1. The property that is the subject of this application (C 140408 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plans, prepared by SLCE Architects, filed with this application and incorporated in this resolution:

<u>Drawing</u>	<u>Title</u>	<u>Last Date Revised</u>
Z-4	ULURP Zoning - Zoning Calculations	Feb. 9, 2015
Z-5	ULURP Zoning - Site Plan	Feb. 9, 2015
Z-6	ULURP Zoning - Ground Floor Plan	Feb. 9, 2015
Z-9	ULURP Zoning - Waiver Plan	Feb. 9, 2015
Z-10	ULURP Zoning - Building Sections	Feb. 9, 2015
Z-11	ULURP Zoning - Building Section	Feb. 9, 2015

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.
3. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.
4. In the event the property that is the subject of the application is developed as, sold as, or

converted to condominium units, a homeowners' association, or cooperative ownership, a copy of this report and resolution and any subsequent modifications shall be provided to the Attorney General of the State of New York at the time of application for any such condominium, homeowners' or cooperative offering plan and, if the Attorney General so directs, shall be incorporated in full in any offering documents relating to the property.

5. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sub-lessee or occupant.
6. Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms or conditions of this resolution and the restrictive declaration whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted or of the restrictive declaration.
7. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city or such employees or agents failure to act in accordance with the provisions of this special permit.

The above resolution (C 140408 ZSM), duly adopted by the City Planning Commission on March 4, 2015 (Calendar No. 14), is filed with the Office of the Speaker, City Council, and the Borough President together with a copy of the plans of the development, in accordance with the requirements of Section 197-d of the New York City Charter.

CARL WEISBROD, Chairman
KENNETH J. KNUCKLES, ESQ., Vice Chairman
RAYANN BESSER, IRWIN G. CANTOR, P.E.,
MICHELLE R. DE LA UZ, JOSEPH I. DOUEK, RICHARD W. EADDY,
CHERYL COHEN EFFRON, BOMEI JUNG, ANNA HAYES LEVIN,
ORLANDO MARIN, LARISA ORTIZ, Commissioners